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7 April 2020

The President of the Legislative Council,
Legislative Council Complex,
Hong Kong.

Sir,

In accordance with the paper tabled in the Provisional Legislative Council on 11 February 1998 on the Scope of Government Audit in the Hong Kong Special Administrative Region — ‘Value for Money Audits’, I have the honour to submit my Report No. 74 on the results of value for money audits completed in accordance with the value for money audit guidelines laid down in the paper. These guidelines are also attached.

Yours faithfully,

John Chu

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The Director of Audit's Report No. 74 contains the following chapters:

Chapter	Subject
1	Management of funding for sports development through the Arts and Sport Development Fund (Sports Portion)
2	Sports Federation & Olympic Committee of Hong Kong, China
3	Employees Retraining Board
4	Government's efforts in implementing electronic recordkeeping system
5	Intellectual Property Department: Registration and protection of intellectual property
6	Management of insolvency services
7	Management of short term tenancies by the Lands Department
8	Provision and management of Community Green Stations

VALUE FOR MONEY AUDIT GUIDELINES

Value for money audit

Value for money audit is an examination into the economy, efficiency and effectiveness with which any bureau of the Government Secretariat, department, agency, other public body, public office, or audited organisation has discharged its functions. Value for money audit is carried out under a set of guidelines tabled in the Provisional Legislative Council by the Chairman of the Public Accounts Committee on 11 February 1998. The guidelines were agreed between the Public Accounts Committee and the Director of Audit and have been accepted by the Administration.

2. The guidelines are:

- firstly, the Director of Audit should have great freedom in presenting his reports to the Legislative Council. He may draw attention to any circumstance which comes to his knowledge in the course of audit, and point out its financial implications. Subject to the guidelines, he will not comment on policy decisions of the Executive and Legislative Councils, save from the point of view of their effect on the public purse;
- secondly, in the event that the Director of Audit, during the course of carrying out an examination into the implementation of policy objectives, reasonably believes that at the time policy objectives were set and decisions made there may have been a lack of sufficient, relevant and reliable financial and other data available upon which to set such policy objectives or to make such decisions, and that critical underlying assumptions may not have been made explicit, he may carry out an investigation as to whether that belief is well founded. If it appears to be so, he should bring the matter to the attention of the Legislative Council with a view to further inquiry by the Public Accounts Committee. As such an investigation may involve consideration of the methods by which policy objectives have been sought, the Director should, in his report to the Legislative Council on the matter in question, not make any judgement on the issue, but rather present facts upon which the Public Accounts Committee may make inquiry;
- thirdly, the Director of Audit may also consider as to whether policy objectives have been determined, and policy decisions taken, with appropriate authority;

- fourthly, he may also consider whether there are satisfactory arrangements for considering alternative options in the implementation of policy, including the identification, selection and evaluation of such options;
- fifthly, he may also consider as to whether established policy aims and objectives have been clearly set out; whether subsequent decisions on the implementation of policy are consistent with the approved aims and objectives, and have been taken with proper authority at the appropriate level; and whether the resultant instructions to staff accord with the approved policy aims and decisions and are clearly understood by those concerned;
- sixthly, he may also consider as to whether there is conflict or potential conflict between different policy aims or objectives, or between the means chosen to implement them;
- seventhly, he may also consider how far, and how effectively, policy aims and objectives have been translated into operational targets and measures of performance and whether the costs of alternative levels of service and other relevant factors have been considered, and are reviewed as costs change; and
- finally, he may also be entitled to exercise the powers given to him under section 9 of the Audit Ordinance (Cap. 122).

3. The Director of Audit is not entitled to question the merits of the policy objectives of any bureau of the Government Secretariat, department, agency, other public body, public office, or audited organisation in respect of which an examination is being carried out or, subject to the guidelines, the methods by which such policy objectives have been sought, but he may question the economy, efficiency and effectiveness of the means used to achieve them.

4. Value for money audit is conducted in accordance with a programme of work which is determined annually by the Director of Audit. The procedure of the Public Accounts Committee provides that the Committee shall hold informal consultations with the Director of Audit from time to time, so that the Committee can suggest fruitful areas for value for money audit by the Director of Audit.

CHAPTER 1

Home Affairs Bureau Leisure and Cultural Services Department

Management of funding for sports development through the Arts and Sport Development Fund (Sports Portion)

**Audit Commission
Hong Kong
2 April 2020**

This audit review was carried out under a set of guidelines tabled in the Provisional Legislative Council by the Chairman of the Public Accounts Committee on 11 February 1998. The guidelines were agreed between the Public Accounts Committee and the Director of Audit and accepted by the Government of the Hong Kong Special Administrative Region.

Report No. 74 of the Director of Audit contains 8 Chapters which are available on our website at <https://www.aud.gov.hk>

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MANAGEMENT OF FUNDING FOR SPORTS DEVELOPMENT THROUGH THE ARTS AND SPORT DEVELOPMENT FUND (SPORTS PORTION)

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MANAGEMENT OF FUNDING FOR SPORTS DEVELOPMENT THROUGH THE ARTS AND SPORT DEVELOPMENT FUND (SPORTS PORTION)

Executive Summary

1. According to the Home Affairs Bureau (HAB), the sports portion of the Arts and Sport Development Fund (ASDF — hereinafter ASDF refers only to its sports portion) is an important source of funding for sports development in Hong Kong. As at 31 March 2019, ASDF had a balance of \$2,396 million. ASDF funds: (a) projects of Sports Federation & Olympic Committee of Hong Kong, China (SF&OC) and National Sports Associations (NSAs) for supporting athletes to prepare for and participate in major international games; (b) projects for hosting international sports events locally by NSAs and sports organisations; (c) projects for the development of local football; (d) the Five-Year Development Programme for Team Sports (the 5-year programme) (covering eight team sports); and (e) other one-off initiatives that are important to the development and promotion of sports in Hong Kong organised by SF&OC and NSAs. In 2018-19, the total number of ASDF approved projects was 166 with an approved amount of \$123.8 million.

2. In the past, ASDF had also provided funding to: (a) 18 district-based football teams to help them improve their performance under the District Football Funding Scheme (DFFS); (b) students from low-income families with sporting talent to help them pursue their sporting goals through participation in the programmes and inter-school competitions under the Student Athlete Support Scheme; and (c) Hong Kong Paralympic Committee & Sports Association for the Physically Disabled (HKPC&SAPD) to implement programmes to help athletes with disabilities achieve good results at the Paralympic Games and the Asian Para Games. These schemes and programmes are now funded through HAB's recurrent expenditure (since 2016-17 for the schemes and since January 2019 for the programmes). For the period 2016-17 to 2018-19, 1,881 approved projects were funded through HAB's recurrent expenditure for the schemes and programmes. The total amount of approved grants was \$72 million.

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3. The Recreation and Sport Branch of HAB is responsible for formulating policies relating to sports development and the administration of ASDF. In administering ASDF, HAB is assisted by the Leisure and Cultural Services Department (LCSD) and the District Offices (DOs). LCSD and DOs serve as executive arms of HAB. They assist in vetting some of the ASDF funding applications and monitor the results of the projects concerned.

4. HAB is advised by the Sports Commission (SC) on the policies, strategies and implementation framework for sports development and the provision of funding and resources in support of sports development in Hong Kong, taking into account the input from various stakeholders in sports through partnership and collaboration. The members are appointed by the Secretary for Home Affairs.

5. SC is underpinned by three committees, namely: (a) Community Sports Committee (CSC) which provides advice on wider participation in sports through partnership with different sectors of the community, and on funding priorities for supporting community sports programmes and initiatives; (b) Elite Sports Committee (ESC) which provides advice on matters pertaining to high performance sports, provides policy direction to the Hong Kong Sports Institute Limited, and advises on funding priorities for supporting high performance sports and athletes; and (c) Major Sports Events Committee (MSEC) which provides advice on strategies and initiatives for hosting major sports events through partnership with sports organisations, the tourism industry and the private sector, and on funding priorities for major sports events.

6. The Audit Commission (Audit) has recently conducted a review of the management of funding for sports development through ASDF (including funding for district and school sports schemes and HKPC&SAPD programmes, which were previously funded through ASDF and are now funded through HAB's recurrent expenditure).

Funding for Hong Kong athletes to prepare for and participate in international games

7. ASDF provides funding to support Hong Kong athletes to prepare for and participate in international games which are not supported by any other Government funding. For monitoring purpose, a grantee is required to submit a programme report and audited accounts to HAB or LCSD within four months after the completion of a preparation programme (for preparation fund) or a sports competition (for participation fund). In the report, the grantee needs to provide a list of actual income and expenditure (paras. 2.2 and 2.5).

8. *Room for improvement in setting and measuring performance targets.* Audit examined 15 projects approved under ASDF preparation and participation funds in the period 2015-16 to 2018-19. These 15 projects involved 19 grantees and 28 applications (a project could involve multiple grantees). For these 28 applications, Audit found that:

- (a) for 7 applications, the grantees had not set performance targets when they submitted their applications. Although the grantees had reported achievements in their programme reports, the achievements could not be measured against any targets;
- (b) for 12 applications, some achievements against performance targets were not reported in the programme reports, and there was no evidence indicating that HAB and LCSD had taken any follow-up actions; and
- (c) for 2 applications, the grantees failed to achieve all or some of the performance targets. There was no evidence indicating that HAB and LCSD had taken any follow-up actions (para. 2.7).

9. *Room for improvement in providing explanations for variances.* In examining the 28 applications (see para. 8), Audit found that for 24 applications (86%), there were significant variances (i.e. over 25%) between the estimated and actual amounts of expenditure and/or between those of income, and the grantees had not provided explanations for the variances in their programme reports (para. 2.10).

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10. ***Need to ensure auditors provide adequate assurance.*** As a grant condition, a grantee is required to comply with the procurement requirements (e.g. quotation requirements) and the Code of Conduct (e.g. governing declaration of conflicts of interest and acceptance of advantages) (para. 2.4). In examining the 28 applications (see para. 8), Audit found that:

- (a) for 11 applications (involving 9 grantees), the auditors did not certify the grantees' compliance with the procurement requirements or the Code of Conduct (para. 2.12(b));
- (b) for 5 applications (involving 2 grantees), the auditors did not certify whether the Code of Conduct had been complied with (para. 2.12(c)); and
- (c) for 3 applications (involving 2 grantees), the auditors stated that there were exceptions in complying with the procurement requirements (e.g. the required number of quotations had not been obtained). There was, however, no evidence indicating that HAB and LCSD had taken any follow-up actions (para. 2.13).

11. ***Need to step up efforts to ensure timely submission of programme reports and audited accounts.*** Audit examined the submission of programme reports and audited accounts by grantees in the period 2014-15 to 2018-19, and found that the delay in submission of programme reports and audited accounts was generally on the decrease. However:

- (a) there were still 62% of cases of delay in respect of the preparation fund in 2018-19;
- (b) there were still 50% of cases of delay in respect of the participation fund for games sanctioned by International Olympic Committee, Olympic Council of Asia, International Paralympic Committee or Asian Paralympic Committee in 2018-19; and
- (c) the cases of delay in respect of the participation fund for other competitions (including games held at national level or for students, and single-sport competitions for team sports) had increased from 18% in 2017-18 to 40% in 2018-19 (paras. 2.15 and 2.16).

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12. *Need to implement the enhanced measures.* A grantee which failed to submit the programme report and/or audited accounts after the ultimate deadline (i.e. six months after the completion of preparation programme or the sports competition) should be liable to refund the ASDF grant, calculated as 1% of the approved grant amount for every month of further delay, until the grantee submits the programme report and audited accounts. In examining the 28 applications (see para. 8), Audit found that for 6 applications, despite that the delay in submission of programme reports and/or audited accounts was more than six months, the 1% charge had not been imposed (paras. 2.6 and 2.17).

13. *Need to review the calculation of amounts to be returned.* As a funding condition, grantees of ASDF preparation and participation funds are required to return any unspent balances to the Government after the completion of preparation programmes or sports competitions. The unspent balance is the amount of approved funding minus the total amount of eligible expenditures. An unspent balance is required to be returned after HAB's or LCSD's verification of a grantee's submitted audited accounts. Among the 28 applications examined by Audit (see para. 8), other than ASDF funding, the grantee of 1 application had self-generated income wrongly included in the calculation of return of unspent balance (paras. 2.18 to 2.20).

14. *Need to ensure timely return of unspent balances.* Audit analysed the time elapsed before returning unspent balances by grantees to the Government in the period 2014-15 to 2018-19 and found that for 6 applications, the grantees returned the unspent balances over one year after the submission of audited accounts. Audit further examined the 28 applications (see para. 8) and found that apart from 1 application where the late return could be attributable to both HAB (about 9.8 months had elapsed since receipt of audited accounts by HAB) and the grantee (about 7 months had elapsed since the date of requesting return by HAB), the late return was mainly due to the long time interval between the dates of receipt of audited accounts by HAB and the dates of issuing letters requesting return by HAB (paras. 2.21 to 2.23).

Funding for international sports events

15. *Vetting of funding applications.* International sports events include: (a) "M" Mark events (MMEs) which are events of world championships, world class level championships and intercontinental championships, and having a signature effect in Hong Kong; (b) Major Local International Events (MLIEs) which are championship

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and other events at a level equivalent to World, Intercontinental, Asian or major regional championships sanctioned and certified by the related International, Asian or Regional Federations; qualifying events for non-annual major competitions; and other international events in which the respective International Federations require Hong Kong to participate as a prerequisite for entry to world championships or equivalent; and (c) Local International Events (LIEs) which are mainly participated by Hong Kong teams (para. 3.2). Audit noted the following issues:

- (a) ***Need to follow guidelines in assessing funding applications.*** Audit examined 10 international sports events, comprising 3 MMEs, 3 MLIEs and 4 LIEs, organised in 2017-18 and 2018-19. Audit noted that in one MLIE, the application had not been properly assessed. According to HAB's guidelines on the scoring system, one of the sub-criteria of a criterion for the assessment of an MLIE is the "timeliness in submission of programme report and audited report (i.e. audited accounts) before the deadline", which is a mandatory requirement. An applicant's "failure in timely submission of the required reports in the last application will not attain any score in this criterion". In an NSA's last application in 2016-17, there was delay (one month) in submission of the programme report and the audited report. However, in the NSA's 2017-18 application, instead of not attaining any score, a score had still been awarded to the criterion (para. 3.9);
- (b) ***Scope for improvement in performance reporting.*** Audit examined the submission of programme reports and audited accounts for MMEs, MLIEs and LIEs by grantees in the period 2014-15 to 2018-19 (para. 3.14). Audit found that:
 - (i) between 2015-16 and 2018-19, the percentage of events with delay in submission of programme reports and audited accounts had either remained the same (at 75% for MMEs) or was on the increase (from 60% to 78% for MLIEs and from 6% to 10% for LIEs) (para. 3.14);
 - (ii) there were inadequacies relating to submitted programme reports and audited accounts. For example, while there were significant variances between the estimated and actual amounts of expenditure or between those of income, for MMEs, grantees were not required to report any aforementioned variances (para. 3.16); and

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- (iii) of the 10 events (see (a) above), in 3 MLIEs and 4 LIEs, of a total of 44 performance targets, 6 targets (e.g. expected number of spectators) had not been achieved and the achievements of 29 targets (e.g. expected achievement of Hong Kong team/athletes for the event) had not been reported. In all the 3 MLIEs and 4 LIEs, there was no evidence indicating that LCSD had taken any follow-up actions (para. 3.18); and
- (c) ***Scope for improvement in conducting on-site inspections.*** According to HAB records, in 2018-19, 4 MMEs, 19 MLIEs and 95 LIEs were organised by 55 NSAs and 1 sports organisation. HAB conducted inspections at all the 4 MMEs, while LCSD conducted inspections at 17 MLIEs and 49 LIEs. Audit examined the on-site inspection records of HAB and LCSD for these events (para. 3.21) and noted that:
- (i) for 2 of the 17 MLIEs and 11 of the 49 LIEs inspected by LCSD, there were no inspection reports documenting the details of inspections (para. 3.21(a));
 - (ii) LCSD had not laid down guidelines on selection of MLIEs and LIEs for on-site inspections. It was therefore not known as to the basis on which LCSD decided that no inspections would be conducted for any of the MLIEs and LIEs organised by 11 (out of 55) NSAs and 1 sports organisation (para. 3.21(b)); and
 - (iii) for the 10 events examined by Audit (see (a) above), in 1 MLIE and 1 LIE, some information (e.g. the number of spectators) was missing in the inspection reports. In addition, LCSD had not laid down guidelines on the number of on-site inspections to be conducted for events that were held for a number of days. For an MLIE held for four days, the LCSD staff had only conducted an inspection in one of the four days (para. 3.22).
16. ***Scope for improvement in returning surpluses and unspent balances by grantees.*** Grantees of MMEs, MLIEs and LIEs are required to return any surpluses (for MMEs) or unspent balances (for MLIEs and LIEs) generated from the events to the Government (para. 3.24). Audit noted the following issues:

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- (a) Audit analysed the incomes and expenditures of 4 MLIEs and 6 LIEs (these events had other incomes (e.g. sponsorships and ticket sales) in addition to ASDF grants) organised in the period 2014-15 to 2018-19 and noted that 4 MLIEs and 5 LIEs had surpluses. Despite the surpluses, contrary to the arrangement that MME grantees need to return their surpluses to the Government, the grantees of the 4 MLIEs and 5 LIEs are not required to do so (they are only required to return their unspent balances) (paras. 3.25 and 3.26);
- (b) a long time had elapsed (e.g. some 10 months) before the unspent balances of some MLIEs and LIEs organised in the period 2014-15 to 2018-19 were returned to the Government (para. 3.28); and
- (c) Audit's examination of the 4 MLIEs and 6 LIEs (see (a) above) as well as two extreme cases in the period 2014-15 to 2018-19 (i.e. 10.8 months for an MLIE and 10.1 months for an LIE) further revealed that a major reason for the long lapse of time was the long time taken by LCSD to verify the amounts of unspent balances and issue request letters to grantees (para. 3.29).

17. ***Other issues relating to international sports events.*** Audit noted that in the period 2013-14 to 2017-18, on several occasions, there was room for improvement in reporting information on international sports events to the Legislative Council (LegCo) by HAB. For example, in a paper to the LegCo Panel on Home Affairs dated May 2018, HAB stated that the number of international sports events hosted locally for the period from 1 April 2013 to 31 March 2018 was 509 with an approved amount of \$157.63 million. However, the reported figure of 509 and reported amount of \$157.63 million were actually the number of fund disbursements and the amount of funds disbursed respectively (para. 3.36).

Funding for football development

18. ***Governance of Hong Kong Football Association (HKFA).*** ASDF provides funding to HKFA for the development of local football through the implementation of football development plans, which comprised the Project Phoenix (in the period November 2011 to October 2014 (subsequently extended to March 2015)) and the Five-Year Strategic Plan (FYSP) (in the period April 2015 to March 2020) (para. 4.2). Audit noted the following issues:

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- (a) ***Need to improve attendance of individual members at meetings.*** Audit examined members' attendance at meetings of HKFA's Board, committees and sub-committees held in the football seasons 2014/15 to 2018/19 (a football season starts in July and ends in June in the ensuing year), and found that there were some members who had attended less than half of the Board/committee/sub-committee meetings (paras. 4.7 and 4.8);
 - (b) ***Scope for improving first-tier declarations of conflicts of interest.*** Audit examined HKFA records for members' declaration of conflicts of interest in the football seasons 2014/15 to 2018/19 and noted that no first-tier declarations were made by members of the Board, committees and sub-committees (para. 4.11);
 - (c) ***Need to enhance the governance of the Audit Committee.*** The requirements stipulated in the Audit Committee's terms of reference (e.g. having 3 to 5 committee members), which was endorsed by the Board in February 2014, had not been met. For example, the Committee consisted of one member (the Chairman) only from July 2015 onwards (para. 4.13); and
 - (d) ***Need to enhance the governance of the Marketing and Communications Committee.*** HKFA could not provide, for Audit's examination, most of the agendas and minutes of meetings of the Marketing and Communications Committee for the period July 2014 to March 2019. In March 2020, HKFA further informed Audit that in the football seasons 2014/15 to 2018/19, there were meetings held but the minutes, other than those for the meetings held in April, May and June 2019, could not be located (para. 4.18).
19. ***Human resource management.*** Audit examined HKFA's recruitment of staff under the Project Phoenix and FYSP as well as HKFA's staff turnovers (para. 4.23). Audit noted the following issues:
- (a) ***Need to enhance recruitment policies and procedures.*** Audit examined 10 HKFA recruitment exercises conducted in the period 2014-15 to 2018-19 and found that some applications were successful despite that they were received after the application deadlines or not sent to the designated recipient (para. 4.24);

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- (b) ***Need to improve declarations of conflicts of interest in recruitment exercises.*** In examining the 10 recruitment exercises (see (a) above), Audit found room for improvement in the declarations of conflicts of interest in recruitment exercises. For example, in 3 of the 10 recruitment exercises, the dates of declaration forms signed by 5 recruitment panel members were later than the dates of interviews (para. 4.28); and
 - (c) ***Need to address high staff turnovers.*** Audit conducted an analysis of the staff turnovers in the period 2014-15 to 2018-19. Audit found that staff turnover rates of ASDF-funded posts were on the high side (i.e. at 30% or more) in 3 years. For some departments of HKFA (e.g. the Marketing and Communications Department), the staff turnover rates were particularly high in some years (i.e. more than 60%). Audit also noted that of 17 staff who left in the period 2014-15 to 2018-19, 6 staff (35%) left for the reason of career development opportunities and 5 staff (29%) left for workload involved (paras. 4.30 and 4.31).
20. ***Attendance of spectators and self-generated incomes.*** HAB expected that HKFA should in time be able to derive income from gate receipts, sponsorship and other sources that would help it achieve steady improvements financially and in management (para. 4.35). Audit noted the following issues:
- (a) ***Need to boost attendances.*** Audit analysed the number of spectators of the matches organised by HKFA in the period 2015-16 to 2018-19 and found that the average number of spectators had decreased by 3.6% from 1,403 in 2015-16 to 1,352 in 2018-19. According to the Football Task Force (FTF), distribution of complimentary tickets can help raise the public interest in football and improve the attendances of matches. However, Audit analysis found that the proportion of spectators holding complimentary tickets to total number of spectators of HKFA matches had increased from 9% in 2015-16 to 14.6% in 2018-19. In some matches, the number of spectators holding complimentary tickets was greater than those holding sold tickets. Furthermore, the results of using complimentary tickets to improve attendances were not always satisfactory. For example, of the 1,778 complimentary tickets distributed for the Asian Football Confederation Asian Cup held in June 2017, 1,158 (65%) tickets were not used (paras. 4.36 to 4.38); and

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- (b) ***Need to generate more incomes.*** Funding from the Government and sports organisations accounted for 47% of the total incomes of HKFA in the football season 2014/15, but the percentage rose to 73% in the football season 2017/18. In addition, apart from programme and registration fee income, all other self-generated incomes were decreasing (para. 4.41).

21. ***Performance measurement and other administrative issues.*** According to FYSP funding agreement between HAB and HKFA, HKFA is required to submit half-yearly progress reports to HAB to report the achievements against performance targets and indicators (para. 4.45). Audit noted the following issues:

- (a) ***Performance targets and indicators not achieved.*** Audit examined the progress reports submitted by HKFA in the period 2015-16 to 2018-19. Audit found that in the period, the number of under-achievements against performance targets and indicators ranged from 2 to 11. In 2018-19, there were under-achievements in 9 performance targets and 3 performance indicators. The extent of individual under-achievements ranged from 1% to 50% (para. 4.46);
- (b) ***Key targets of the consultancy report not achieved.*** Audit examined the achievements against the key targets set in the consultancy report on football development issued in December 2009, and found that up to the end of September 2019, some achievements were lower than the targets and even lower than the achievements in 2009. For example, for the “National” Team Fédération Internationale de Football Association world ranking for the ladies, the position in December 2009 was 60. According to the target set in the consultancy report, the position should become 40 in 2015 and “maintain top 35” in 2020. However, up to the end of September 2019, the actual position was 77, which was lower than the position (i.e. 60) in 2009 (paras. 4.48 and 4.49);
- (c) ***Need to improve the accuracy of reporting achievements against the performance targets and indicators.*** In respect of a performance target (namely “increase sponsorship and advertising gross revenue”) reported in the half-yearly progress reports, there were discrepancies between the amounts reported in the half-yearly progress reports and the amounts provided by HKFA in August 2019. In addition, in respect of a performance indicator (namely “average attendance per HKPL (i.e. Hong Kong Premier League) match”), there were discrepancies between the

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attendances reported in the half-yearly progress reports and those published on HKFA website (paras. 4.53 and 4.54);

- (d) ***Need to observe procurement requirements.*** Audit examined 50 items of goods and services procured (with amounts ranging from \$440 to \$1 million) in the period June 2014 to September 2019 under the Project Phoenix and FYSP. Audit found that for 10 items (20%), HKFA did not obtain any quotations and there was no documentation on the justifications for not obtaining any quotations (para. 4.58); and
- (e) ***Need for HAB to release grant payments in a timely manner.*** An annual grant endorsed by FTF and approved by HAB shall be allocated to HKFA by four equal quarterly instalments payable in advance at the beginning of each quarter of the annual grant period. Audit found that, in the period 2015-16 to 2019-20, there were late disbursements (up to 163 days late) of the instalment of the annual grants. Audit further noted that in 2016-17, 2018-19 and 2019-20, the FTF meetings to endorse the annual grant applications were held after the beginning (i.e. 1 April) of the grant periods. (paras. 4.61 to 4.63).

Funding for other sports programmes and schemes

22. ***Need to closely monitor the implementation of the 5-year programme (see para. 1).*** The 5-year programme covers the period 1 January 2018 to 31 December 2022 with a committed funding of \$105 million from ASDF. The programme provides funding to the eight team sports (i.e. (a) baseball; (b) basketball; (c) handball; (d) hockey; (e) ice hockey; (f) softball; (g) volleyball; and (h) water polo) competing in the 2018 and 2022 Asian Games, and the 2021 Asian Winter Games. The programme aims at enhancing the performance of the team sports progressively and increasing their chances of attaining elite sports status in the future. For the Asian Games, the 5-year programme covers four development stages (i.e. pre-2018 and the 2018 Asian Games from 2017 to 2019, post-2018 Asian Games in 2019-20, pre-2022 Asian Games from 2020 to 2022, and the 2022 Asian Games). The performance targets set for the first development stage were that the final positions of the teams in the 2018 Asian Games should be higher than those in the 2014 Asian Games. However, Audit noted that 9 of the 12 teams that participated in the 2018 Asian Games did not achieve the performance targets (paras. 5.2, 5.3, 5.5 and 5.11).

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23. ***Scope for improvement in reporting achievements by District Football Teams (DFTs) under DFFS.*** ASDF provided and HAB continues to provide funding for DFFS (see para. 2). In the period 2014-15 to 2018-19, about \$10 million was disbursed to 18 DFTs under DFFS every year. For performance monitoring purpose, under DFFS, a DFT is required to submit to its respective DO a mid-term report and a final report in March (during DFFS funding period starting in June and ending in May in the ensuing year) and June (after DFFS funding period) respectively. In the reports, the DFT provides information on the project income and expenses, the dates of training sessions, the dates of competitions held, and the community building activities organised. The respective DO, on the other hand, is required to submit to HAB the mid-term report of DFT in April, and the final report of DFT together with a performance evaluation report in July. The performance evaluation report indicates DFT's achievements against four performance targets, use of funds, and timeliness of submission of mid-term and final reports (paras. 5.15, 5.16, 5.18 and 5.19). Audit examined the performance evaluation reports submitted by DOs to HAB in the DFFS funding periods 2014/15 to 2018/19, and noted that:

- (a) of the 18 DFTs, out of the four performance targets, 4 DFTs continuously did not achieve one or more of the targets throughout the entire period, while the other 14 (18 minus 4) DFTs did not achieve at least one of the targets in one or more years (para. 5.20(a));
- (b) notwithstanding the under-achievements mentioned in (a) above, explanations had not been provided by 10 of the 18 DFTs. While the remaining 8 DFTs had provided explanations, some "significant differences", which had not been defined by HAB, were left unexplained (para. 5.20(b)); and
- (c) there was no requirement stipulating that DFTs should report their achievements in their reports. DFTs' achievements were either reported by DFTs on their own initiative in their reports or made known to DOs upon DOs' enquiries for the purpose of assessing DFTs' achievements (para. 5.21(a)).

24. ***Need for proper control on purchases made under DFFS.*** Under DFFS, DFTs are required to submit in March and June of a DFFS funding period, information on quotations obtained, receipts for goods and services purchased, and completed reimbursement forms for claiming reimbursement of expenses. In visiting two DOs (one in Kowloon and one in the New Territories), Audit noted that in the DFFS funding periods 2014/15 to 2018/19, the two respective DFTs (of the two DOs)

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had not provided any information on quotations obtained for some purchases, e.g. for the DFT in Kowloon, 5 purchases of football team insurances and 2 purchases of goods (i.e. footballs) amounting to a total of \$37,504 and \$6,765 respectively. It was therefore uncertain whether the two DFTs had obtained any quotations for the aforesaid purchases. Furthermore, despite the missing information, there was no evidence indicating that the two DOs had taken any follow-up actions (paras. 5.24 to 5.26).

25. *Need to review the effectiveness of funding provided to HKPC&SAPD.*

Funding is provided to HKPC&SAPD to hire three staff to implement programmes to help athletes with disabilities achieve good results at the Paralympic Games and the Asian Para Games. The first funding was provided to HKPC&SAPD through ASDF in 2011-12. Since January 2019, funding had been provided through HAB's recurrent expenditure. In 2018-19, \$1,335,000 was provided to HKPC&SAPD. Audit analysed the results of the Hong Kong Paralympian teams in the Paralympic Games and the Asian Para Games (paras. 5.30, 5.32 and 5.33). Audit found that:

- (a) for the Paralympic Games, the number of medals attained by the Hong Kong Paralympian teams decreased from 12 in the 2012 Paralympic Games to 6 in the 2016 Paralympic Games (para. 5.34(a)); and
- (b) for the Asian Para Games, the ranking of Hong Kong in terms of number of medals dropped from 9 in the 2010 Asian Para Games to 10 in the 2018 Asian Para Games (para. 5.34(b)).

Governance of the Sports Commission and its committees

26. *Need to review and update Standing Orders.* SC has three underpinning committees, namely, CSC, ESC and MSEC (SC and the underpinning committees are hereinafter collectively referred to as "SC/committees" unless otherwise stated). For SC, ESC and MSEC, secretariat services are provided by HAB. For CSC, secretariat services are provided by LCSD. HAB and LCSD have issued Standing Orders for each of SC/committees governing its operation. According to the Standing Orders, regular meetings of SC may be held once every three to four months (i.e. 4 or 3 meetings a year), and regular meetings of the underpinning committees may be held every three months (i.e. 4 meetings a year). However, Audit noted that for the period 2015 to 2019, on average, each of SC/committees held only 2 meetings per year. To ensure that the functions of SC/committees are effectively carried out,

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HAB and LCSD need to review the frequency of SC/committee meetings laid down in the Standing Orders (paras. 6.4, 6.5, 6.7 and 6.9).

27. *Need to take measures to encourage attendance.* Audit examined, for the period 2015 to 2019, individual members' attendance at the meetings. Audit noted that, each year, there were members who did not attend any meetings of SC or an underpinning committee. The number of such members totalled 32 in the period. Records did not indicate that HAB and LCSD had taken actions to encourage members to attend meetings (paras. 6.13 and 6.15).

28. *Need to improve management of potential conflicts of interest.* In 2005, the Secretary for Home Affairs issued a memorandum entitled "Advisory and Statutory Bodies — Declaration of Interests" to all advisory and statutory bodies of government bureaux and departments. According to the memorandum, there are two systems to make a declaration of interests, namely one-tier reporting system and two-tier reporting system. A one-tier reporting system has been adopted for SC and its underpinning committees. According to the Standing Orders (see para. 26), if any member has any potential conflicts of personal or pecuniary interest direct or indirect in any matter under consideration by SC or an underpinning committee, the member shall declare it to SC or the underpinning committee as appropriate prior to the discussion of that item. Audit examined the minutes of meetings of SC/committees for the period 2015 to 2019, and noted occasions where members of SC did not adequately declare potential conflicts of interest. In this connection, Audit noted that according to the Standing Orders of SC and ESC, a declaration of interests by any member shall be recorded in the minutes of the meeting. However, there was no similar requirement in the Standing Orders of CSC and MSEC. Subsequently, in March 2020, LCSD informed Audit that the requirement had been included in the Standing Orders of CSC (paras. 6.18 to 6.21).

29. *Need to review the system for declaring interests.* By the memorandum of 2005 (see para. 28), bureaux and departments are reminded to review from time to time the systems for declaring interests for the advisory and statutory bodies under their purview, so as to ensure that the systems match the needs of the bodies concerned. Records did not indicate that HAB and LCSD had reviewed, from time to time, the SC/committees' system for declaring interests having regard to the memorandum of 2005 (paras. 6.23 and 6.24).

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30. ***Room for improvement in disclosure of meeting information.*** According to the Standing Orders, the notice of meeting, the agenda and the papers of a meeting shall be made available to the public by the secretary within the calendar year in which the meeting was held (i.e. via the HAB website for meetings of SC, ESC and MSEC, and via the LCSD website for meetings of CSC), unless the nature and/or contents of which are confidential. In January 2020, Audit examined the posting of information on the HAB website/LCSD website for meetings held in the period 2015 to 2019. A total of 43 meetings were held in the period, comprising 11 SC meetings, 11 CSC meetings, 11 ESC meetings and 10 MSEC meetings. Audit found that, as at 31 January 2020, notices of meetings had not been posted for all 43 (100%) meetings, and agendas had not been posted for 11 (26%) meetings. In March 2020, HAB informed Audit that the requirement on posting notices of meetings was outdated, and regarding the agendas, they have been available on the websites since February 2020. HAB and LCSD need to ensure that the Standing Orders are updated with the latest requirements, and that information on meetings of SC/committees is disclosed to the public in accordance with the Standing Orders (paras. 6.28 to 6.31).

31. ***Need to ensure that confidentiality agreements are signed and returned by members.*** Members of SC/committees are appointed by the Secretary for Home Affairs. According to the practice of HAB and LCSD, members are requested to sign an agreement upon appointment. Under the agreement, which is laid out in a standard form, members undertake to keep matters of SC/committees confidential as necessary. Audit examined the members' agreements in the period 2015 to 2019, and found that the agreements of some committee members were missing (i.e. involving one ESC member and four MSEC members). According to HAB, the members did not return the agreements (paras. 6.32 and 6.33).

Audit recommendations

32. **Audit recommendations are made in the respective sections of this Audit Report. Only the key ones are highlighted in this Executive Summary. Audit has *recommended* that the Secretary for Home Affairs should:**

Funding for Hong Kong athletes to prepare for and participate in international games

- (a) **clarify the calculation of return of unspent balances by grantees, and ensure that HAB and LCSD staff properly calculate the amounts of unspent balances to be returned (para. 2.25);**

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Funding for international sports events

- (b) require MME grantees to provide in their programme reports explanations for variance over 25% between the estimated and actual amounts of expenditure as well as between the estimated and actual amounts of income, and take follow-up actions where warranted (para. 3.31(a));
- (c) review the existing arrangements for returning surpluses of MMEs and unspent balances of MLIEs and LIEs to ascertain the need to align or modify the arrangements (para. 3.31(b));
- (d) improve the reporting of information relating to international sports events to LegCo in future (para. 3.38);

Funding for football development

- (e) urge HKFA to take effective measures to improve its governance, including:
 - (i) encouraging members of the Board, committees and sub-committees to attend meetings, especially those members who are frequently absent from the meetings (para. 4.19(a));
 - (ii) ensuring that first-tier declaration of conflicts of interest forms are sent to members of the HKFA Board, committees and sub-committees for their completion at the time of appointment and thereafter annually, and that the forms are duly completed and returned to HKFA (para. 4.19(b));
 - (iii) ensuring that the Audit Committee complies with the requirements stipulated in the terms of reference of the Committee (para. 4.19(c)); and
 - (iv) ensuring that agendas and minutes of meetings of the Marketing and Communications Committee are duly kept (para. 4.19(d));

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- (f) **urge HKFA to take effective measures to improve its human resource management, including:**

 - (i) **laying down policies and procedures for handling job applications received after the application deadlines and for dealing with applications not submitted through the proper channel as required (para. 4.33(a));**
 - (ii) **ensuring that conflicts of interest in recruitment exercises are properly and adequately declared (para. 4.33(h)); and**
 - (iii) **closely monitoring the staff turnover rates (especially for those HKFA departments with particularly high turnover rates), and making efforts to address the high turnover rates taking into account the reasons for staff leaving HKFA (para. 4.33(j));**
- (g) **urge HKFA to take effective measures to boost attendance and generate income, including:**

 - (i) **ascertaining the reasons for the decrease in the number of spectators, taking into account the audit observations on HKFA's distribution of complimentary tickets, in order to take further measures to boost the attendances (para. 4.43(a)); and**
 - (ii) **ascertaining the reasons for the general decrease in self-generated incomes, so as to step up measures to generate more such incomes (para. 4.43(b));**
- (h) **scrutinise HKFA's strategic plan to ensure that the plan adequately and effectively addresses the performance deficiencies, and closely monitor HKFA's performance to determine the way forward for football development in Hong Kong (para. 4.65(a));**
- (i) **require HKFA to resolve the discrepancies in the reporting of sponsorship and advertising gross revenue (para. 4.65(b));**

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- (j) **redetermine the types of matches to be included in the reporting of average attendance per HKPL match, and ensure that the achievement is properly reported by HKFA (para. 4.65(c));**
- (k) **urge HKFA to take effective measures to ensure that the requirements on obtaining quotations are duly observed, and in circumstances where the requirements could not be observed, the justifications for the non-compliance is documented to strengthen the control (para. 4.65(d));**
- (l) **look into the concern of HKFA on late disbursements of instalments of annual grants, and make efforts to release any future grant payments to HKFA in a timely manner (para. 4.65(e));**

Funding for other sports programmes and schemes

- (m) **closely monitor the implementation of the third development stage (i.e. pre-2022 Asian Games from 2020 to 2022) of the Five-Year Development Programme for Team Sports (para. 5.13);**
- (n) **clearly define “significant differences” between the achievements and the set performance targets of DFTs, and inform DOs about the definition so as to facilitate them to take follow-up actions where warranted (para. 5.27);**
- (o) **continue to review the effectiveness of the funding provided to HKPC&SAPD to help the Hong Kong Paralympian teams achieve good results in the Paralympic Games and the Asian Para Games, and instigate improvement measures where warranted (para. 5.37);**

Governance of the Sports Commission and its committees

- (p) **remind members of SC to declare potential conflicts of interest as required by SC Standing Orders (para. 6.25(a));**

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- (q) consider including a requirement in the Standing Orders of MSEC, whereby declaration of interests by any member shall be recorded in the minutes of meetings (para. 6.25(b));
 - (r) look into the cases in which the ESC and MSEC members did not return the signed agreements containing the confidentiality clause, and take remedial actions as necessary (para. 6.35(a)); and
 - (s) take measures to ensure that agreements are signed and returned by members of SC/committees (para. 6.35(b)).
33. Audit has also *recommended* that the Director of Leisure and Cultural Services should:

Funding for international sports events

- (a) in vetting ASDF funding applications, ensure that HAB's guidelines are followed in assessing the timeliness of submission of programme reports and audited reports by applicants (para. 3.10(a));
- (b) take measures to ensure that MLIE and LIE grantees adequately and clearly report their event achievements against performance targets, and take follow-up actions in situations where the targets are not achieved and/or the achievements are not properly reported (para. 3.32(c));
- (c) take measures to ensure that all details of on-site inspections conducted for MLIEs and LIEs are documented (para. 3.32(d));
- (d) set guidelines on the selection of MLIEs and LIEs for on-site inspections (para. 3.32(e));
- (e) issue guidelines on the number of on-site inspections to be conducted for MLIEs and LIEs that are held for a number of days (para. 3.32(f)); and

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- (f) identify scope for expediting the verification of amounts of unspent balances to be returned by MLIE and LIE grantees and the issue of letters to request them to return the unspent balances (para. 3.32(h)).

34. Audit has also *recommend* that the Secretary for Home Affairs and the Director of Leisure and Cultural Services should:

Funding for Hong Kong athletes to prepare for and participate in international games

- (a) take measures to ensure that applicants for ASDF preparation and participation funds set performance targets in their funding applications, and that grantees of such funds report all achievements against performance targets in their programme reports (para. 2.26(a));
- (b) in circumstances where grantees of ASDF preparation and participation funds have failed to achieve performance targets, instigate follow-up actions with the grantees (para. 2.26(b));
- (c) require grantees to provide explanations for variances over 25% between the estimated and actual amounts of expenditure as well as between those of income in the programme reports (para. 2.26(c));
- (d) issue guidelines to grantees to ensure that their auditors certify their compliance with the procurement requirements and the Code of Conduct, and in cases where non-compliance is reported in the audited accounts, instigate follow-up actions with the grantees (para. 2.26(d));
- (e) step up efforts to reduce the delay in submission of programme reports and audited accounts by grantees (para. 2.26(e));
- (f) impose the charge, stipulated under HAB's enhanced measures, for delay in submission of programme reports and audited accounts by grantees (para. 2.26(f));

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- (g) ascertain the reasons for the late return of unspent balances by grantees and take measures to ensure that such balances are returned in a timely manner (para. 2.26(g));

Funding for international sports events

- (h) step up efforts in ensuring timely submission of programme reports and audited accounts by MME, MLIE and LIE grantees, including taking measures against those grantees that are frequently late in submitting their reports and accounts (para. 3.33(a));

Governance of the Sports Commission and its committees

- (i) review the frequency of SC/committee meetings laid down in the Standing Orders and update the Standing Orders as appropriate (para. 6.16(a));
- (j) step up efforts to encourage SC/committee members to attend meetings (para. 6.16(b));
- (k) having regard to the memorandum of 2005, periodically review the system for declaring interests for SC/committees (para. 6.26);
- (l) ensure that the Standing Orders are updated with the latest requirements (para. 6.34(a)); and
- (m) ensure that information on meetings of SC/committees is disclosed to the public in accordance with the Standing Orders (para. 6.34(b)).

35. Audit has *recommended* that the Secretary for Home Affairs should, acting through DOs:

Funding for other sports programmes and schemes

- (a) require DFTs to report their achievements against the performance targets in their reports submitted to DOs and provide DOs with

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supporting documents for the reported achievements, and conduct verifications accordingly (para. 5.28(a) and (b));

- (b) **require DFTs to provide explanations for any “significant differences” to DOs and ensure that necessary follow-up actions are taken by DOs on such differences so as to help DFTs achieve their performance targets (para. 5.28(c)); and**
- (c) **take measures to ensure that DFTs provide DOs with information on quotations obtained in making purchases, and that DOs take follow-up actions where warranted (para. 5.28(d)).**

Response from the Government

36. The Secretary for Home Affairs and the Director of Leisure and Cultural Services accept the audit recommendations.

PART 1: INTRODUCTION

1.1 This PART describes the background to the audit and outlines the audit objectives and scope.

Background

1.2 The Home Affairs Bureau (HAB) covers a wide spectrum of policy areas, including civic education, culture and arts, district and community relations, sports and recreation, and youth policy. According to HAB, insofar as sports are concerned, participation in sports contributes significantly to sound physical and mental health, and provides a basis for social interaction and a sense of belonging to the community. The Government attaches great importance to sports development, with the objectives to:

- (a) promote sports in the community;
- (b) support elite sports development; and
- (c) promote Hong Kong as a centre for major sports events.

1.3 According to HAB, to support the long-term development of sports and achieve the aforesaid objectives (see para. 1.2), the Government's expenditure on sports development increased by 28% from \$3,948 million in 2014-15 to \$5,054 million in 2018-19. Table 1 shows the funding for sports development in 2018-19.

Table 1
Funding for sports development
(2018-19)

Funding authority	Source and nature of funding	2018-19 expenditure (\$ million)	Percentage
Leisure and Cultural Services Department (LCSD) (Note 1)	<p>(a) Through LCSD's expenditure to establish and operate sports and recreation facilities (e.g. indoor sports centres, tennis courts and swimming pools) for the public, and to promote sports development (Note 2)</p> <p>(b) Through LCSD's recurrent expenditure to organise a wide variety of sports and recreation programmes for the public (Note 3), and through LCSD's recurrent subvention under its recreation and sports funding for the Sports Subvention Scheme (Note 4) to the Sports Federation & Olympic Committee of Hong Kong, China (SF&OC — Note 5) and National Sports Associations (NSAs — Note 6) for organising sports training programmes, squad training, development schemes, and overseas and local international events, etc.</p>	4,169	82.5%
HAB	(c) Through the Elite Athletes Development Fund administered by HAB, to the Hong Kong Sports Institute Limited (HKSI) for supporting the development of elite sports and elite athletes (Note 7)	596	11.8%

Table 1 (Cont'd)

Funding authority	Source and nature of funding	2018-19 expenditure (\$ million)	Percentage
	(d) Through four sports-related funds of the Sir David Trench Fund for Recreation (Note 8) administered by HAB, to SF&OC, NSAs, sports organisations (e.g. the Sha Tin District Sports Association Limited and the North District Archery Club) and athletes for sports development (see para. 1.4 for further details)	115	2.3%
	(e) Through HAB's recurrent expenditure to sports organisations and schools (primary and secondary schools) to carry out district and school sports schemes, and with effect from January 2019, to the Hong Kong Paralympic Committee & Sports Association for the Physically Disabled (HKPC&SAPD — an NSA) for implementing programmes to help athletes with disabilities achieve good results at the Paralympic Games and the Asian Para Games (see para. 1.8(c) for further details)	33	0.6%
	(f) Through HAB's funding to SF&OC (including its affiliated company) for its operational needs (i.e. financing SF&OC's personnel, office and programme expenses)	24	0.5%
	(g) Others (e.g. HAB's departmental expenses, personal emoluments, and consultancy studies)	117	2.3%
Total		5,054	100.0%

Source: HAB records

Table 1 (Cont'd)

- Note 1: HAB is the policy bureau of LCSD, which provides leisure and cultural services (including sports) to the public.*
- Note 2: In March 2004 and October 2004, the Audit Commission (Audit) completed reviews entitled “Provision of aquatic recreational and sports facilities” (Chapter 7 of the Director of Audit’s Report No. 42) and “Provision and management of indoor recreational and sports facilities” (Chapter 8 of the Director of Audit’s Report No. 43) respectively.*
- Note 3: In October 2008, Audit completed a review entitled “Provision of recreation and sports services” (Chapter 10 of the Director of Audit’s Report No. 51).*
- Note 4: In October 2009, Audit completed a review entitled “Administration of the Sports Subvention Scheme” (Chapter 1 of the Director of Audit’s Report No. 53).*
- Note 5: SF&OC is recognised by the International Olympic Committee (IOC) as the National Olympic Committee (NOC) in Hong Kong, China. IOC is a not-for-profit independent international organisation. In addition to establishing and administering the Olympic rules, IOC selects a host country of the Olympic Games every four years, accepts or rejects new sports and events on the Olympic programme and oversees the efforts of various other organisations (e.g. NOCs and the Olympic Organising Committee for each host city) on the development and promotion of sports. As at 29 February 2020, there were 206 NOCs worldwide. As an NOC, SF&OC is dedicated to the development and promotion of sports in accordance with the Olympic Charter (see the IOC website — <http://www.olympic.org>) which serves as statutes for IOC (see para. 1.16).*
- Note 6: NSAs are the local governing bodies for various types of sports (e.g. Hong Kong Badminton Association Limited; The Cycling Association of Hong Kong, China Limited; and The Karatedo Federation of Hong Kong, China Limited). Their main objectives are to promote and develop sports in Hong Kong, and to train and select delegations to participate in international sports events. As at 29 February 2020, 79 NSAs (see Appendix A) were members of SF&OC. They were recognised by SF&OC as the official representatives of their respective sports. A total of 60 NSAs (including 59 NSAs which are members of SF&OC and 1 NSA which is not a member of SF&OC) received block grants from LCSD’s Sports Subvention Scheme (see Note 4 above).*
- Note 7: As at 31 March 2019, the Elite Athletes Development Fund had a fund balance of \$11.8 billion. The Fund is solely for supporting the development of elite sports and elite athletes by HKSI (see Appendix B). In April 2015, Audit completed a review entitled “Hong Kong Sports Institute Limited” (Chapter 5 of the Director of Audit’s Report No. 64).*
- Note 8: The Sir David Trench Fund for Recreation is a statutory fund established in 1970 under the Sir David Trench Fund for Recreation Ordinance (Cap. 1128) for the purpose of providing facilities for recreational, sporting, cultural and social activities and other objects ancillary or incidental to this purpose.*

Funding for sports development through four sports-related funds of Sir David Trench Fund for Recreation

1.4 Under the Sir David Trench Fund for Recreation (see (d) in Table 1 in para. 1.3), HAB provides funding for sports development through four sports-related funds:

- (a) ***Arts and Sport Development Fund (ASDF).*** ASDF, set up in January 1997, consists of the arts portion and the sports portion. The arts portion funds applications for supporting arts projects recommended by the Hong Kong Arts Development Council. The sports portion provides funding to SF&OC, NSAs, sports organisations and athletes for sports development. More details of ASDF are shown in paragraphs 1.5 to 1.8 (hereinafter ASDF refers only to its sports portion. As this audit review is concerned with sports matters, the arts portion is not covered in this review);
- (b) ***Hong Kong Athletes Fund.*** The Fund, set up in August 1996, provides grants to individual athletes to allow them to pursue excellence in their chosen sports through academic and educational training, and to provide them with the opportunity to develop alternative careers upon retirement from competitive sports;
- (c) ***Sports Aid for the Disabled Fund.*** The Fund, set up in August 1985, promotes sports for disabled people; and
- (d) ***Sports Aid Foundation Fund.*** The Fund, set up in February 1987, provides assistance (e.g. coaching fees and allowances arising from loss of earnings as a result of participation in competitions) to financially needy athletes in their pursuit of excellence.

Funding for sports development through ASDF

1.5 As at 31 March 2019, among the four sports-related funds of the Sir David Trench Fund for Recreation, ASDF had the highest fund balance of \$2,396 million (i.e. about 97% of the total balance of \$2,476 million of the four funds). All of ASDF's capital has come from Government injections approved by the Finance Committee of the Legislative Council (LegCo). In 2018-19, ASDF paid the largest

Introduction

amount of grants of \$111 million (i.e. about 97% of the total amount of grants of \$115 million of the four funds) to grantees. Table 2 shows the details.

Table 2

**Sports-related funds of Sir David Trench Fund for Recreation
(31 March 2019)**

Fund	Fund balance as at 31 March 2019		Grants paid in 2018-19	
	\$ million	%	\$ million	%
ASDF	2,396	96.8	111	96.5
Hong Kong Athletes Fund	24	1.0	4	3.5
Sports Aid for the Disabled Fund	9	0.3	Nil (Note)	
Sports Aid Foundation Fund	47	1.9		
Total	2,476	100.0	115	100.0

Source: Audit analysis of HAB records

Note: In 2007-08, HKSI implemented the following financial support schemes:

- (a) the Sports Aid for the Disabled Grant to provide direct financial support to Hong Kong athletes with demonstrated performance and potential to achieve or maintain success in the international sports arena. Since then, no applications for grants from the Sports Aid for the Disabled Fund have been received; and*
- (b) the Elite Training Grant to provide direct financial support to elite athletes. Since then, no applications for grants from the Sports Aid Foundation Fund have been received.*

1.6 According to HAB, ASDF is an important source of funding for sports development in Hong Kong. It is a major source for supporting Hong Kong athletes' preparation for and participation in international multi-sports games

(hereinafter collectively referred to as international games) (Note 1) (see para. 1.7(a)), and for holding international sports events in Hong Kong (see para. 1.7(b)). Supporting the athletes would enable them to have regular international training exposure and competition experience in the lead-up to major games, and therefore enhancing their medal-winning chances in the games. Through hosting international sports events, opportunities are provided to local athletes to compete on home ground and to the general public to watch high-level competitions, thereby promoting a strong sporting culture.

1.7 ASDF funds a variety of sports projects:

- (a) projects of SF&OC and NSAs for supporting athletes to prepare for and participate in major international games, which include the 2012 London and 2016 Rio Olympic Games and Paralympic Games; the 2010 Guangzhou, 2014 Incheon and 2018 Jakarta Asian Games (see Photograph 1 for an example) and Asian Para Games; the 2017 Summer Universiade (Note 2); and the National Games and the National Youth Games;

Note 1: *International multi-sports games refer to games that are held over multiple days, featuring competitions of different sports which are to be competed among member nations. ASDF provides funding for non-elite athletes to prepare for international games (the Elite Athletes Development Fund (see (c) in Table 1 in para. 1.3) provides funding for elite athletes to prepare for international games), and for both elite and non-elite athletes to participate in international games.*

Note 2: *Summer Universiade is an international university sports and cultural event that is staged every two years in a different city.*

Photograph 1

**Hong Kong, China Delegation
participated in the 2018 Jakarta Asian Games
(2018)**



Source: SF&OC records

- (b) projects for hosting international sports events locally by NSAs and sports organisations, which include “M” Mark events (MMEs — Note 3) and major international sports events, such as the Asian Youth Single Dance Championship Hong Kong (see Photograph 2), the Badminton Championships, the Fédération Internationale de Volleyball Volleyball Nations League, the Hong Kong Open Badminton Championships and the Hong Kong Squash Open;

Note 3: *MMEs are events of world championships, world class level championships (e.g. world cup, one stop of the world class series or world tour) and intercontinental championships.*

Photograph 2

**Asian Youth Single Dance Championship Hong Kong
(2019)**



Source: Photograph taken by Audit on 9 November 2019

Introduction

- (c) projects for the development of local football in accordance with the recommendations of the Football Task Force (FTF — Note 4), which include the Project Phoenix and the Five-Year Strategic Plan (FYSP) of the Hong Kong Football Association (HKFA — an NSA);
- (d) the Five-Year Development Programme for Team Sports launched in January 2018 (covering eight team sports featured in Asian Games, namely baseball, basketball, handball, hockey, ice hockey, softball, volleyball, and water polo) with the aim of enhancing the performance of team sports progressively and increasing their chances of attaining elite sports status in the future; and
- (e) other one-off initiatives that are important to the development and promotion of sports in Hong Kong organised by SF&OC and NSAs (e.g. Hong Kong Beach Festival 2014 jointly organised by seven NSAs).

Note 4: *Established in May 2010, FTF is chaired by the Permanent Secretary for Home Affairs and comprises seven members (people from the sports field, academics and other professionals) appointed by the Secretary for Home Affairs. Its terms of reference are:*

- (a) *with reference to the recommendations of the consultancy report on football development, to identify the priority areas for early implementation;*
- (b) *to assist the Hong Kong Football Association in drawing up a strategic programme for the further development of football in Hong Kong;*
- (c) *to identify the resources needed to take forward the further development of football in Hong Kong and to coordinate the provision of the necessary resources;*
- (d) *to monitor progress with measures to take forward the further development of football in Hong Kong and to report on progress to the Secretary for Home Affairs; and*
- (e) *to exchange views with stakeholders on progress with the further development of football in Hong Kong.*

1.8 In the past, ASDF had also provided funding to sports organisations and schools (primary and secondary schools) to carry out district and school sports schemes, and to HKPC&SAPD to implement programmes to support athletes with disabilities. These schemes and programmes, which are now funded through HAB's recurrent expenditure (since 2016-17 for the schemes and since January 2019 for the programmes — Note 5), comprise the following:

- (a) ***District Football Funding Scheme (DFFS).*** The Scheme provides funding support to 18 district-based football teams to help them improve their performance. The funding support covers, for example, expenditure on coaching, equipment and transportation, and insurance;
- (b) ***Student Athlete Support Scheme.*** The Scheme provides financial support to students from low-income families with sporting talent to help them pursue their sporting goals through participation in the Outreach Coaching Programme (Note 6), the Joint School Sports Training Programme (Note 7), and inter-school competitions organised by the Hong Kong Schools Sports Federation (HKSSF — an NSA); and

Note 5: *According to HAB, ASDF should focus on funding projects with a time-limited (see para. 1.7(a) to (d)) or one-off nature (see para. 1.7(e)). As such, the schemes and the programmes are now funded through HAB's recurrent expenditure. The mode of operation is the same for funding under ASDF and HAB's recurrent expenditure.*

Note 6: *Under the Outreach Coaching Programme, coaches from NSAs are arranged to conduct sports training for students in schools and assist schools in setting up school teams for participation in inter-school competitions.*

Note 7: *Under the Joint School Sports Training Programme, students who have attained the required skill level in individual sports will be selected for advanced training.*

- (c) ***Funding for HKPC&SAPD programmes.*** Funding is provided to HKPC&SAPD to hire three staff (i.e. a Programme Director and two Programme Officers) to implement programmes to help athletes with disabilities achieve good results at the Paralympic Games and the Asian Para Games. Under the ASDF's funding, these programmes were known as the Striving for Excellence Programme and the Sustaining Optimal Performance Programme. The former programme helped the athletes achieve good results at the Paralympic Games in 2012 and the Asian Para Games in 2014, while the latter programme served the same purpose but for the Paralympic Games in 2016 and the Asian Para Games in 2018. According to HAB, similar programmes are currently funded through HAB's recurrent expenditure as part of the Government's funding support to HKPC&SAPD for its reorganisation and establishment of a new Hong Kong Paralympic Committee as an independent organisation from the Sports Association for the Physically Disabled (Note 8).

1.9 Table 3 shows the number of ASDF approved projects for the period 2014-15 to 2018-19. Figure 1 shows the amount of ASDF approved grants for the period 2014-15 to 2018-19.

Note 8: *In addition to DFFS, the Student Athlete Support Scheme and funding for HKPC&SAPD programmes, a scheme known as the School Sports Programme Coordinator Scheme was previously funded by ASDF. The Scheme aimed at providing students with more opportunities to participate in sports, raising the level of sports in schools and identifying students with sports potential, and providing coordinators (i.e. retired athletes) with an on-the-job training platform for further career development. Under the Scheme, coordinators were responsible for organising and implementing sport programmes proposed by schools to meet the aims. From 2016-17 to August 2018, the Scheme was funded through HAB's recurrent expenditure. Since September 2018 (i.e. start of the school year 2018/19), the Scheme has been integrated into the Retired Athletes Transformation Programme operated by SF&OC.*

Table 3

**Number of ASDF approved projects
(2014-15 to 2018-19)**

Project type	Number of approved projects				
	2014-15	2015-16	2016-17	2017-18	2018-19
(a) Hong Kong athletes' preparation for and participation in international games (see para. 1.7(a))	9	20	17	23	27
(b) International sports events (see para. 1.7(b))	97	92	100	111	134
(c) Football development (see para. 1.7(c)) (Note 1)	N.A.	1	N.A.		
(d) Five-Year Development Programme for Team Sports (see para. 1.7(d))	N.A.			1 (Note 2)	3
(e) One-off sports projects (see para. 1.7(e))	2	Nil			2
(f) District and school sports schemes and HKPC&SAPD programmes (see para. 1.8)	497	608	N.A. (Note 3)		
Total	605	721	117	135	166

Source: Audit analysis of HAB records

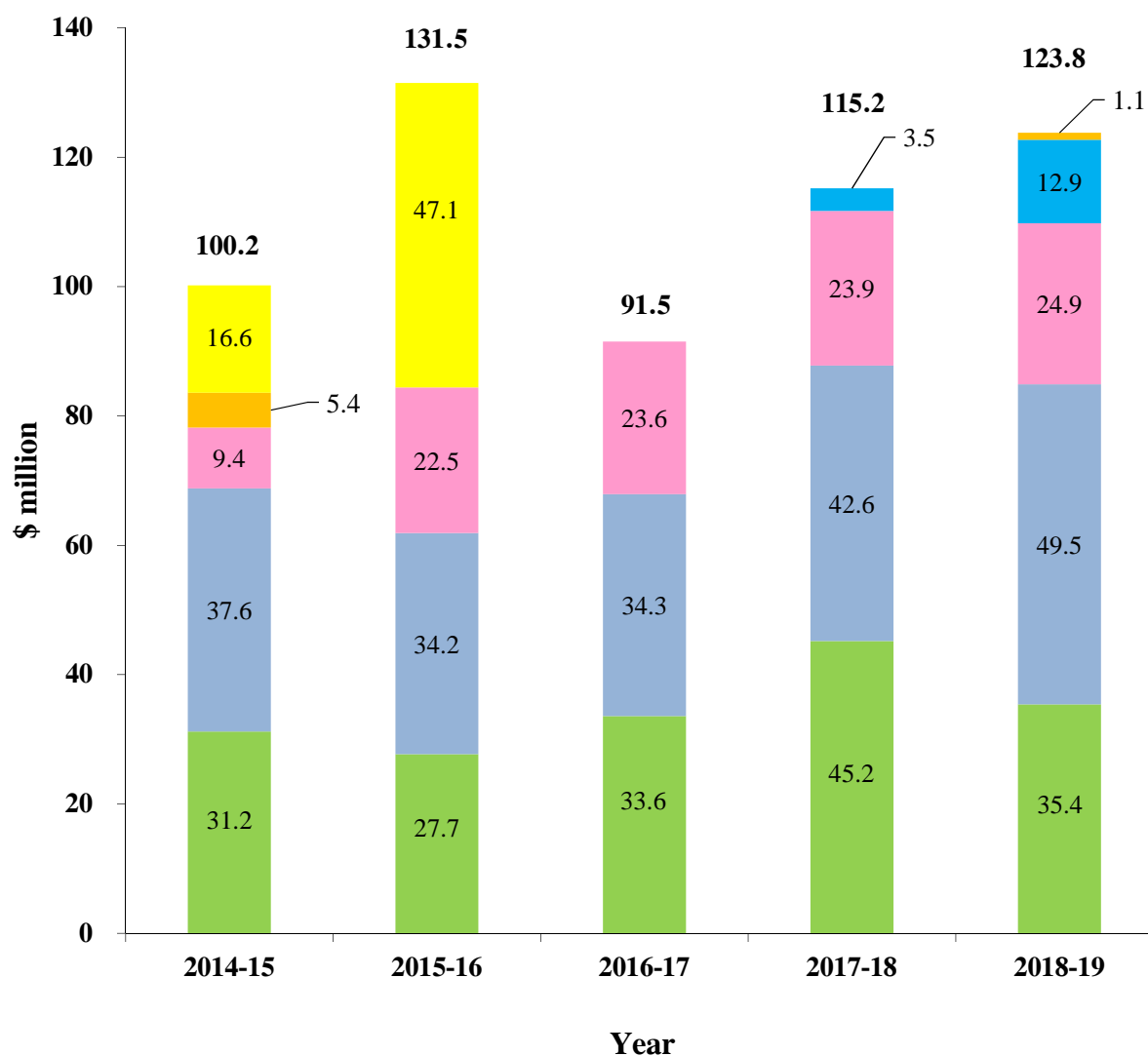
Note 1: HKFA's Project Phoenix was approved in 2011-12. HKFA's FYSP for football development was approved in 2015-16.

Note 2: The Five-Year Development Programme for Team Sports was launched in January 2018.

Note 3: Instead of through ASDF, since 2016-17, district and school sports schemes have been funded through HAB's recurrent expenditure. Since January 2019, HKPC&SAPD programmes have also been funded through such expenditure (see para. 1.8).

Figure 1

**ASDF approved grants
(2014-15 to 2018-19)**



- Legend:
- Hong Kong athletes' preparation for and participation in international games
 - International sports events
 - Football development
 - Five-Year Development Programme for Team Sports
 - One-off sports projects
 - District and school sports schemes and HKPC&SAPD programmes (The schemes and programmes have been funded through HAB's recurrent expenditure since 2016-17 and January 2019 respectively — see para. 1.8)

Source: *Audit analysis of HAB records*

1.10 For the period 2016-17 to 2018-19, 1,881 approved projects were funded through HAB's recurrent expenditure for district and school sports schemes and HKPC&SAPD programmes (see para. 1.8). The total amount of approved grants was \$72 million.

Administration by HAB

1.11 The Recreation and Sport Branch of HAB is responsible for formulating policies relating to sports development. It is also responsible for the administration of ASDF under the Sir David Trench Fund for Recreation (Note 9) (see para. 1.4), and funding for district and school sports schemes and HKPC&SAPD programmes. An extract of the organisation chart of HAB as at 29 February 2020 is shown at Appendix C. As at 29 February 2020, the Branch was headed by the Commissioner for Sports (i.e. an Administrative Officer Staff Grade B) and underpinned by three directorate officers with the support of 69 staff at non-directorate level (including 61 civil servants and 8 contract staff). Among them, 14 staff (comprising 2 Administrative Officers Staff Grade C, 2 Administrative Officers, 4 Leisure Services Managers, 2 Executive Officers, 1 Accounting Officer and 3 non-civil service contract staff) are involved in the administration of ASDF and monitoring the implementation of the funded programmes as part of their duties.

1.12 In administering ASDF, HAB is assisted by LCSD and the District Offices (DOs). LCSD and DOs serve as executive arms of HAB. They assist in vetting some of the ASDF funding applications and monitor the results of the projects concerned. More details about their work are provided in PARTs 2 to 5 of this Audit Report.

Note 9: *The Director of Accounting Services is the statutory trustee of the Sir David Trench Fund for Recreation and is responsible for managing the investment and accounting work of the Fund.*

Sports Commission

- 1.13 HAB is advised by the Sports Commission (SC — Note 10) on:
- (a) the policies, strategies and implementation framework for sports development in Hong Kong; and
 - (b) the provision of funding and resources in support of sports development in Hong Kong, taking into account the input from various stakeholders in sports through partnership and collaboration.
- 1.14 SC is underpinned by three committees, namely:
- (a) ***Community Sports Committee (CSC)***. The Committee provides advice on wider participation in sports through partnership with different sectors of the community, and on funding priorities for supporting community sports programmes and initiatives;
 - (b) ***Elite Sports Committee (ESC)***. The Committee provides advice on matters pertaining to high performance sports, provides policy direction to HKSI, and advises on funding priorities for supporting high performance sports and athletes; and
 - (c) ***Major Sports Events Committee (MSEC)***. The Committee provides advice on strategies and initiatives for hosting major sports events through partnership with sports organisations, the tourism industry and the private sector, and on funding priorities for major sports events.

Note 10: *SC was established in 2005. It consists of academics, athletes and chairpersons of NSAs and sports organisations. As at 30 June 2019, the membership comprised 1 ex-officio Chairperson (the Secretary for Home Affairs), 1 ex-officio Vice-chairperson (President, SF&OC), 8 ex-officio members (the Chairpersons and Vice-Chairpersons of the Community Sports Committee, the Elite Sports Committee and the Major Sports Events Committee (see para. 1.14), the Chairperson of HKSI, and the Director of Leisure and Cultural Services) and 11 other members. The members are appointed by the Secretary for Home Affairs for a term of two years (renewable every two years).*

Audit review

1.15 Over the years, Audit has conducted various audits concerning sports development in Hong Kong (see Notes 2, 3, 4 and 7 to Table 1 in para. 1.3). Against this background, Audit has recently conducted a review of the management of funding for sports development through ASDF (including funding for district and school sports schemes and HKPC&SAPD programmes, which were previously funded through ASDF and are now funded through HAB's recurrent expenditure). The audit review has focused on the following areas:

- (a) funding for Hong Kong athletes to prepare for and participate in international games (PART 2);
- (b) funding for international sports events (PART 3);
- (c) funding for football development (PART 4);
- (d) funding for other sports programmes and schemes (PART 5); and
- (e) governance of the Sports Commission and its committees (PART 6).

Audit has found room for improvement in the above areas and has made a number of recommendations to address the issues.

1.16 In connection with sports development, apart from the above review, Audit has also conducted a review of SF&OC (see (f) in Table 1 in para. 1.3), with a view to examining, among other things, other related areas not covered in the previous audit reviews. The audit findings are reported in Chapter 2 (Sports Federation & Olympic Committee of Hong Kong, China) of the Director of Audit's Report No. 74.

General response from the Government

1.17 The Secretary for Home Affairs welcomes the recommendations in the Audit Report which are conducive to the future management of funding for sports development through ASDF.

Acknowledgement

1.18 Audit would like to acknowledge with gratitude the full cooperation of the staff of HAB, DOs, LCSD, SF&OC and NSAs concerned during the course of the audit review.

PART 2: FUNDING FOR HONG KONG ATHLETES TO PREPARE FOR AND PARTICIPATE IN INTERNATIONAL GAMES

2.1 This PART examines funding for Hong Kong athletes to prepare for and participate in international games (including competitions of different sports at World and Asian levels) (hereinafter the funding is referred to as preparation and participation funds), focusing on project monitoring (paras. 2.5 to 2.28).

Background

2.2 ASDF provides funding to support Hong Kong athletes to prepare for and participate in international games which are not supported by any other Government funding. These international games comprise:

- (a) ***Multi-sports games.*** These include:
 - (i) games sanctioned by IOC (see Note 5 to Table 1 in para. 1.3) or the Olympic Council of Asia (OCA — Note 11), where the preparation is coordinated by NSAs and participation is coordinated by SF&OC. Examples are the Asian Games, the Asian Beach Games, the Asian Winter Games, the Olympic Games, the Olympic Winter Games (see Photograph 3), the Summer Youth Olympic Games, etc.;

Note 11: *OCA is a governing body of sports in Asia. In 2020, there were 45 member NOCs.*

Funding for Hong Kong athletes to prepare for and participate in international games

Photograph 3

Hong Kong, China Delegation
participated in the 23rd Olympic Winter Games in PyeongChang, Korea
(2018)



Source: SF&OC records

- (ii) games sanctioned by the International Paralympic Committee (IPC — Note 12) and Asian Paralympic Committee (APC — Note 13) where the preparation and participation are coordinated by HKPC&SAPD. Examples are the Asian Para Games, the Asian Winter Para Games, the Asian Youth Para Games, the Paralympic Games, the Winter Paralympic Games, etc.;

Note 12: *IPC is the global governing body of the Paralympic Movement. It organises the Summer and Winter Paralympic Games.*

Note 13: *APC is the only official representative of IPC in Asia, and the owner of the Para Games in the region.*

Funding for Hong Kong athletes to prepare for and participate in international games

- (iii) games held at national level, where the preparation and participation are coordinated by LCSD, HKPC&SAPD and NSAs. Examples are the National Games, the National Youth Games, the National Games for the Disabled cum the National Special Olympics, and the National Winter Games; and
 - (iv) games held for students, where preparation and participation are coordinated by HKSSF or The University Sports Federation of Hong Kong, China Limited (an NSA). Examples are the Summer Universiade, the National Student Sports Games and the Gymnasiade; and
- (b) *Single-sport competitions for team sports (Note 14).* They are sanctioned by the international sports federations or Asian sports federations. The preparation and participation are arranged by the respective NSAs.

2.3 Table 4 shows the number and amount of projects (e.g. the Asian Games) approved under the preparation and participation funds in the period 2014-15 to 2018-19. The fund for each project had been used in its respective year of approval or the following year.

Note 14: *Team sports is a sport of which a group of individuals on the same team competes with the opposing team. Examples are baseball, basketball and volleyball.*

**Funding for Hong Kong athletes to prepare for
and participate in international games**

Table 4

**Number and amount of projects approved
under preparation and participation funds
(2014-15 to 2018-19)**

Year of approval	Approved projects			
	Preparation fund		Participation fund	
	No.	Amount (\$)	No.	Amount (\$)
2014-15	3	8,823,922	6	22,455,872
2015-16	8	8,748,261	12	18,941,738
2016-17	9	16,595,491	8	17,059,930
2017-18	12	24,183,411	11	20,962,939
2018-19	13	5,507,350	14	29,942,883
Total	45	63,858,435	51	109,363,362

Source: HAB records

2.4 Table 5 shows the application and monitoring procedures of the preparation and participation funds.

Funding for Hong Kong athletes to prepare for and participate in international games

Table 5

Application and monitoring procedures of preparation and participation funds

	Multi-sports games (see para. 2.2(a))						Single-sport competitions for team sports (see para. 2.2(b))
	Preparation fund			Participation fund			Preparation and participation funds
	Games sanctioned by IOC or OCA	Games sanctioned by IPC or APC	Games held at national level or for students	Games sanctioned by IOC or OCA	Games sanctioned by IPC or APC	Games held at national level or for students	
(a) Fund recipient	NSAs	HKPC& SAPD	NSAs	SF&OC	HKPC& SAPD	LCSD, HKPC& SAPD and NSAs	NSAs
(b) Executive arm	LCSD			HAB	HAB or LCSD		HAB
(c) Vetting of application	LCSD Vetting Committee of Sports Subvention (Note 1)			HAB	HAB or LCSD Vetting Committee of Sports Subvention (Note 1)		HAB
(d) Approval of funding	Secretary for Home Affairs						
(e) Eligible expenditure	100% of eligible expenditure (Note 2), subject to funding ceilings (Note 3)			100% eligible expenditure (Note 2) for the National Games, the National Games for the Disabled cum the National Special Olympics, the National Winter Games, the National Youth Games, and the National Student Sports Games, 90% for other multi-sports games			Preparation fund: 100% of eligible expenditure (Note 2) subject to funding ceilings (Note 3) Participation fund: 90% of eligible expenditure (Note 2)
(f) Disbursement of grant	After approval by the Secretary for Home Affairs						

Funding for Hong Kong athletes to prepare for and participate in international games

Table 5 (Cont'd)

	Multi-sports games (see para. 2.2(a))						Single-sport competitions for team sports (see para. 2.2(b))
	Preparation fund			Participation fund			Preparation and participation funds
	Games sanctioned by IOC or OCA	Games sanctioned by IPC or APC	Games held at national level or for students	Games sanctioned by IOC or OCA	Games sanctioned by IPC or APC	Games held at national level or for students	
(g) Submission of programme reports and audited accounts by a grantee within 4 months after the completion of the preparation programme (for preparation fund) or the sports competition (for participation fund)	LCSD			HAB	HAB or LCSD		HAB
(h) Other grant conditions	<ul style="list-style-type: none">HAB/LCSD has the right to suspend processing subsequent funding applications if a grantee failed to submit programme reports and audited accountsA grantee is required to comply with the procurement requirements (e.g. quotation requirements) and the Code of Conduct (e.g. governing declaration of conflicts of interest and acceptance of advantages)						

Source: HAB and LCSD records

Note 1: LCSD Vetting Committee of Sports Subvention comprised an Assistant Director of LCSD and 6 LCSD staff (i.e. 1 Senior Treasury Accountant, 1 Senior Executive Officer and 4 Chief Leisure Managers).

Note 2: Eligible expenditures include, for example, accommodation and air ticket costs, audit fee, meal allowance, overseas training programme expenses, and expenditure for procurement of sports equipment.

Note 3: The funding ceilings vary with types of international games and different number of participating athletes/teams. The funding ceilings ranged from \$90,000 to \$1.8 million.

Project monitoring

2.5 As stated in Table 5 in paragraph 2.4, for monitoring purpose, a grantee is required to submit the following documents to HAB or LCSD within four months after the completion of a preparation programme (for preparation fund) or a sports competition (for participation fund):

- (a) ***Programme report.*** In the programme report, the grantee receiving preparation and participation funds is required to report, among other things (e.g. the date of and venue for holding the competition, and the number of complimentary tickets issued), achievements against performance targets (e.g. projected achievements of athletes). In the report, the grantee needs to provide a list of actual income and expenditure; and
- (b) ***Audited accounts.*** It comprises an audited statement of accounts and an assurance report containing the auditor's opinion on the accounts.

2.6 Since 2015-16, to ensure timely submission of programme reports and audited accounts by grantees, HAB and LCSD have implemented the following enhanced measures whereby a grantee failed to submit the programme report and/or audited accounts after the ultimate deadline (i.e. six months after the completion of preparation programme or the sports competition):

- (a) the grantee should be liable to refund the ASDF grant, calculated as 1% of the approved grant amount for every month of further delay, until the grantee submits the programme report and audited accounts; and
- (b) HAB/LCSD reserves the right to suspend processing further funding applications for any ASDF funding (i.e. not limiting to preparation and participation funds) from the same grantee.

Funding for Hong Kong athletes to prepare for and participate in international games

Need to enhance performance reporting by grantees

2.7 ***Room for improvement in setting and measuring performance targets.*** Audit examined 28 applications (Note 15) approved under ASDF preparation and participation funds, the preparation programmes and sports competitions of which had been completed. Audit found that:

- (a) for 7 applications, the grantees indicated in their programme reports the achievements against performance targets, which were set at the time when they submitted their applications (i.e. in their submitted applications). The grantees also provided explanations for not achieving targets;
- (b) for 7 applications, the grantees had not set performance targets (e.g. projected achievements of athletes and training programme targets (such as hours, weeks and types of training (e.g. physical and psychological))) when they submitted their applications. Although the grantees had reported achievements in their programme reports, the achievements could not be measured against any targets;
- (c) for 12 applications, some achievements against performance targets were not reported in the programme reports, and there was no evidence indicating that HAB and LCSD had taken any follow-up actions. For example, while it was expected that two athletes would enter top 16 of the competition, and 240 hours of sports, physical and psychological training would be provided to the athletes, there was no mentioning in the programme report whether these targets had been achieved; and

Note 15: *Audit examined 15 projects approved under ASDF preparation and participation funds in the period 2015-16 to 2018-19. These 15 projects comprised 11 projects of multi-sports games and 4 projects of single-sport competitions. They involved 19 grantees (i.e. SF&OC and 18 NSAs) and 28 applications (a project could involve multiple grantees. For example, the Asian Games (a project) involved many programmes such as swimming, golf and volleyball. The NSA for the swimming competition submitted an application for the preparation fund, while the NSA for the golf competition submitted another application for the fund. The project, therefore, involved two grantees and two applications). Of the 28 applications, 20 were applications for preparation fund (with approved amounts ranging from \$0.2 million to \$7.7 million), while 8 were for participation fund (with approved amounts ranging from \$0.3 million to \$15.6 million).*

Funding for Hong Kong athletes to prepare for and participate in international games

- (d) for the remaining 2 applications, the grantees failed to achieve all or some of the performance targets. There was no evidence indicating that HAB and LCSD had taken any follow-up actions.

2.8 In March 2020, HAB informed Audit that the vision of providing preparation and participation funds is to allow exposure to potential athletes, with an aim to enhancing their competitiveness. Nevertheless, not reaching the envisaged numbers of medals or athletes eligible for final rounds of major competitions should not be taken, at face value, as under-achievements of performance targets. There is no simple causal link between enhancement in competitiveness and competition results. LCSD also informed Audit that regarding elite sports development including multi-sports games as well as high-level single-sport competitions, it will take years to materialise the effort and investment. Therefore, it may not be realistic to measure their achievement according to an individual event. Disadvantaging certain sports based on the achievements at an individual event is against HAB's funding objective. For any individual event, the immediate target is to let Hong Kong athletes participate in the highest level of international games and let them have the opportunity to accumulate experience. A more appropriate assessment is whether, over time, Hong Kong athletes in the sports concerned are registering progressive improvements.

2.9 While noting the views of HAB and LCSD (see para. 2.8), Audit considers that inadequacies in grantees' practices in reporting achievements (see para. 2.7) are not conducive to proper project monitoring and upholding accountability. HAB and LCSD need to take measures to ensure that applicants in their applications for ASDF preparation and participation funds set performance targets which include targets for measuring outcomes, and that grantees report all achievements against performance targets in their programme reports. HAB and LCSD also need to instigate follow-up actions (e.g. making enquiries with grantees and providing assistance as appropriate) in circumstances where grantees have failed to achieve performance targets.

2.10 *Room for improvement in providing explanations for variances.* In examining the 28 applications (see para. 2.7), Audit found that for 24 applications (86%), there were significant variances (i.e. over 25%) between the estimated and actual amounts of expenditure and/or between those of income, and the grantees had not provided explanations for the variances in their programme reports. Table 6 shows these variances.

Funding for Hong Kong athletes to prepare for and participate in international games

Table 6

**Variances in income and expenditure of 24 applications
(2015-16 to 2018-19)**

	Number of applications involved (Note 1)	Variance	
		Amount	Percentage
Estimated amount of income less than actual amount of income	3	\$2,723 to \$22,000	N.A. (Note 2)
Estimated amount of expenditure more than actual amount of expenditure	24	\$125,222 to \$5.4 million	30% to 87%

Source: Audit analysis of HAB and LCSD records

Note 1: Three applications with variances of over 25% between estimated and actual amounts of income also had variances of over 25% between estimated and actual amounts of expenditure.

Note 2: The estimated amounts of income provided by the grantees in the applications were nil.

2.11 In March 2020, HAB informed Audit that it was not mandatory for grantees to provide explanations for variances over 25% under the mechanism of ASDF applications. In view of the significant variances, Audit considers that HAB and LCSD need to require grantees to provide explanations for variances over 25% between the estimated and actual amounts of expenditure as well as between those of income in the programme reports.

2.12 *Need to ensure auditors provide adequate assurance.* In examining the 28 applications (see para. 2.7), Audit found that the assurance provided by auditors in the audited accounts submitted by the grantees varied. Details are as follows:

Funding for Hong Kong athletes to prepare for and participate in international games

- (a) for 12 applications (involving 8 grantees), the auditors certified the grantees' compliance with the procurement requirements and the Code of Conduct (see (h) in Table 5 in para. 2.4);
- (b) for 11 applications (involving 9 grantees), the auditors did not certify the grantees' compliance with the procurement requirements or the Code of Conduct. In these applications, they only certified the accuracy of the statements of accounts; and
- (c) for 5 applications (involving 2 grantees), the auditors certified the accuracy of the statements of accounts and the grantees' compliance with the procurement requirements. However, they did not certify whether the Code of Conduct had been complied with.

2.13 Audit further noted that of the 28 applications, the auditors of 3 applications (involving 2 grantees) stated that there were exceptions in complying with the procurement requirements (e.g. the required number of quotations had not been obtained). There was, however, no evidence indicating that HAB and LCSD had taken any follow-up actions.

2.14 Audit considers that HAB and LCSD need to issue guidelines to grantees of ASDF preparation and participation funds to ensure that their auditors certify their compliance with the procurement requirements and the Code of Conduct. In cases where non-compliance is reported in the audited accounts, HAB and LCSD also need to instigate follow-up actions (e.g. seeking clarifications from grantees concerned) with the grantees.

2.15 *Need to step up efforts to ensure timely submission of programme reports and audited accounts.* Audit examined the submission of programme reports and audited accounts by grantees in the period 2014-15 to 2018-19 (see Table 7).

**Funding for Hong Kong athletes to prepare for
and participate in international games**

Table 7

**Submission of programme reports and audited accounts by grantees
(2014-15 to 2018-19)**

Year	Preparation fund		Participation fund			
			Games sanctioned by IOC, OCA, IPC or APC		Other competitions (Note 1)	
	Number of applications					
	Approved and implemented	With delay in submission of reports and accounts	Approved and implemented	With delay in submission of reports and accounts	Approved and implemented	With delay in submission of reports and accounts
2014-15	25	20 (80%)	4	1 (25%)	2	1 (50%)
2015-16	13	9 (69%)	2	1 (50%)	54	49 (91%)
2016-17	23	18 (78%)	3	3 (100%)	36	7 (19%)
2017-18	30	17 (57%)	3	3 (100%)	39	7 (18%)
2018-19	13	8 (62%)	4	2 (50%)	10	4 (40%)
Extent of delay before and after implementation of enhanced measures (see para. 2.6)						
Before implementation	0.3 to 13.6 months (average: 4.3 months)		1.1 months (Note 2) (average: 1.1 months)		3.0 months (Note 2) (average: 3.0 months)	
After implementation	0.1 to 10.9 months (average: 2.2 months)		0.1 to 2.0 months (average: 0.9 month)		0.1 to 4.6 months (average: 1.1 months)	

Source: Audit analysis of HAB and LCSD records

Note 1: Other competitions include games held at national level or for students, and single-sport competitions for team sports.

Note 2: There was only one application.

Funding for Hong Kong athletes to prepare for and participate in international games

2.16 As shown in Table 7, the delay in submission of programme reports and audited accounts was generally on the decrease after the implementation of the enhanced measures. However, given that:

- (a) there were still 62% of cases of delay in respect of the preparation fund in 2018-19, and that the number of cases of delay had increased from 57% in 2017-18 to 62% in 2018-19;
- (b) there were still 50% of cases of delay in respect of the participation fund for games sanctioned by IOC, OCA, IPC or APC in 2018-19; and
- (c) the cases of delay in respect of the participation fund for other competitions had increased from 18% in 2017-18 to 40% in 2018-19,

HAB and LCSD need to step up efforts to reduce the delay in submission of programme reports and audited accounts by grantees.

2.17 *Need to implement the enhanced measures.* In examining the 28 applications (see para. 2.7), Audit also found that for 6 applications, despite that the delay in submission of programme reports and/or audited accounts was more than six months, the 1% charge under the enhanced measures (see para. 2.6(a)) had not been imposed. To alert grantees to the need for timely submission of programme reports and audited accounts, HAB and LCSD need to impose the charge for delay in submission of reports and accounts.

Return of unspent balances

2.18 As a funding condition, grantees of ASDF preparation and participation funds are required to return any unspent balances to the Government after the completion of preparation programmes or sports competitions. The unspent balance is the amount of approved funding minus the total amount of eligible expenditures. An unspent balance is required to be returned after HAB's or LCSD's verification of a grantee's submitted audited accounts.

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2.19 *Need to review the calculation of amounts to be returned.* Among the 28 applications examined by Audit (see para. 2.7), other than ASDF funding, the grantees of 4 applications (2 for each of the preparation fund and the participation fund) had self-generated incomes (e.g. contributions from NSA officials and athletes, and entry fees of athletes). Table 8 shows the return of unspent balances of these 4 applications.

Table 8
Return of unspent balances of 4 applications
(2015-16 to 2018-19)

Fund	Application	ASDF approved funding (a)	Self- generated income (b)	Total amount of eligible expenditure (c)	Amount of unspent balance returned (d)	Basis of calculation of return of unspent balance
		(\$)				
Preparation fund	A	870,000	2,723	663,417	209,306	Taken into account self-generated income (i.e. (a) + (b) – (c))
	B	1,400,000	3,200	438,920	961,080	Not taken into account self-generated income (i.e. (a) – (c))
Participation fund	C	1,219,712	216,000	879,329	340,383	
	D	414,981	22,000	305,051	109,930	

Source: Audit analysis of HAB and LCSD records

Remarks: LCSD was responsible for handling Applications A to C and HAB was responsible for handling Application D.

2.20 As shown in Table 8, it appeared that for Application A, the self-generated income had been wrongly included in the calculation of return of unspent balance, as according to HAB, the unspent balance is the amount of approved funding minus the total amount of eligible expenditures (i.e. excluding self-generated income) (see para. 2.18). Audit considers that HAB needs to clarify the calculation of return of

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unspent balances by grantees and ensure that HAB and LCSD staff properly calculate the amounts of unspent balances to be returned.

2.21 *Need to ensure timely return of unspent balances.* Audit analysed the time elapsed before returning unspent balances by grantees to the Government in the period 2014-15 to 2018-19 and found that:

- (a) for 6 applications, the grantees returned the unspent balances over one year after the submission of audited accounts (see Table 9). In one extreme case, the time elapsed was 29.2 months (i.e. 2.4 years); and

Table 9

Time elapsed before returning unspent balances (31 October 2019)

Year	Preparation fund				Participation fund			
	3 months or less	More than 3 months to 6 months	More than 6 months to 1 year	More than 1 year	3 months or less	More than 3 months to 6 months	More than 6 months to 1 year	More than 1 year
	(No. of applications)							
2014-15	8	2	2	Nil	Nil	1	Nil	Nil
2015-16	3	5	Nil		6	5		
2016-17	10	4	1	2	7	Nil	1	
2017-18	9	3	1	4	4	6	2	
2018-19	5	Nil	2	Nil	7	1	Nil	
Overall	0.1 month to 29.2 months (average: 4.8 months)				0.1 month to 11.9 months (average: 2.7 months)			

Source: Audit analysis of HAB and LCSD records

Remarks: The time elapsed was counted from the date of receipt of audited accounts by HAB/LCSD to the date of returning the unspent balance by a grantee.

- (b) some grantees were repeatedly late in returning unspent balances to the Government (see Case 1 for an example).

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Case 1

Return of unspent balance by a grantee (31 October 2019)

1. In the period 2016-17 to 2018-19, a grantee was approved ASDF preparation fund for the following applications:

Application	Date of submission of audited accounts	Date of returning unspent balance	Amount of unspent balance (\$)	Percentage of unspent balance to approved fund amount
A	10.2.2017	31.3.2017	61,722	19%
B	25.4.2017	19.9.2019	221,925	38%
C	1.6.2017	19.9.2019	2,610	1%
Total amount of unspent balances returned			286,257	
D	21.3.2018	Not yet returned as at 31.10.2019	119,269	33%
E	21.3.2018		87,248	25%
F	6.6.2018		172,303	41%
G	13.12.2018		81,497	30%
H	22.1.2019		144,406	46%
Total amount of unspent balances not yet returned			604,723	

2. As shown in the above Table, the grantee was repeatedly late in returning unspent balances to the Government. In some cases, the time elapsed was more than 1.5 years (i.e. for Applications B, C, D and E).

Source: Audit analysis of HAB records

2.22 Audit further examined the 28 applications to attempt to ascertain the reasons for the late return of unspent balances by grantees. Results of Audit's examination are shown in Table 10.

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Table 10

**Return of unspent balances of four applications
(31 October 2019)**

Application	Funding concerned	Date of receipt of audited accounts by HAB (a)	Date of issuing letter requesting return by HAB (b)	Date of return of unspent balance by grantee (c)	Time elapsed (d) = Time between (a) and (c)	Amount of return (%)
1	Preparation fund	6.6.2018	27.3.2019 (after 9.8 months of receipt of audited accounts)	Not yet returned as at 31.10.2019		172,303
2	Preparation fund	17.1.2018	2.4.2019 (after 14.7 months of receipt of audited accounts)	18.4.2019	15.2 months	82,367
3	Participation fund	30.8.2018	22.3.2019 (after 6.8 months of receipt of audited accounts)	2.4.2019	7.2 months	230,340
4	Participation fund	17.4.2018	22.3.2019 (after 11.3 months of receipt of audited accounts)	10.4.2019	11.9 months	422,435

Source: Audit analysis of HAB records

Remarks: HAB was responsible for handling the above four applications.

2.23 As shown in Table 10, apart from Application 1 where the late return could be attributable to both HAB (about 9.8 months had elapsed since receipt of audited accounts by HAB) and the grantee (about 7 months (from 27 March 2019 to 31 October 2019) had elapsed since the date of requesting return by HAB), the late return was mainly due to the long time interval between the dates of receipt of audited accounts by HAB and the dates of issuing letters requesting return by HAB.

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2.24 Audit considers that HAB and LCSD need to fully ascertain the reasons for the late return of unspent balances and take measures (e.g. finding out the reasons for late return of unspent balances by grantees, issuing reminders to grantees, and setting time pledges for issuing letters requesting return of unspent balances) to ensure that unspent balances are returned in a timely manner.

Audit recommendations

2.25 Audit has *recommended* that the Secretary for Home Affairs should clarify the calculation of return of unspent balances by grantees, and ensure that HAB and LCSD staff properly calculate the amounts of unspent balances to be returned.

2.26 Audit has *recommended* that the Secretary for Home Affairs and the Director of Leisure and Cultural Services should:

- (a) take measures to ensure that applicants for ASDF preparation and participation funds set performance targets in their funding applications, and that grantees of such funds report all achievements against performance targets in their programme reports;
- (b) in circumstances where grantees of ASDF preparation and participation funds have failed to achieve performance targets, instigate follow-up actions (e.g. making enquiries with grantees and providing assistance as appropriate) with the grantees;
- (c) require grantees to provide explanations for variances over 25% between the estimated and actual amounts of expenditure as well as between those of income in the programme reports;
- (d) issue guidelines to grantees to ensure that their auditors certify their compliance with the procurement requirements and the Code of Conduct, and in cases where non-compliance is reported in the audited accounts, instigate follow-up actions (e.g. seeking clarifications from grantees concerned) with the grantees;

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- (e) **step up efforts to reduce the delay in submission of programme reports and audited accounts by grantees;**
- (f) **impose the charge, stipulated under HAB's enhanced measures, for delay in submission of programme reports and audited accounts by grantees; and**
- (g) **ascertain the reasons for the late return of unspent balances by grantees and take measures to ensure that such balances are returned in a timely manner.**

Response from the Government

2.27 The Secretary for Home Affairs and the Director of Leisure and Cultural Services accept the audit recommendations. They have said that:

- (a) the provision of preparation and participation funds will continue to serve the purpose of giving athletes the opportunity to compete at major competitions at international or national levels. HAB and LCSD will take measures to improve the setting of performance targets and monitoring of their achievement. They will make clear in the funding guidelines for the grantees that athletes' performance targets and actual results in any particular competition are not among the factors of their consideration in approving applications for preparation and participation funds. They nevertheless would take into account the performance of the athletes, over time, in the sports concerned;
- (b) HAB and LCSD will modify the relevant guidelines for the grantees to ensure that their auditors certify their compliance with the procurement requirements and the Code of Conduct, and alert them on the consequence if any non-compliance is spotted;
- (c) HAB and LCSD will review the relevant guidelines for the grantees to provide explanations for variances over 25% between estimated and actual amount of expenditure as well as between those of income and devise a new programme report proforma;

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- (d) HAB and LCSD will re-assess the timelines for submission of programme reports and audited accounts and devise a new assessment mechanism to differentiate different degree of late submission and assessment consequences. New designated assessment form will be devised accordingly if considered necessary; and
- (e) HAB will clarify the calculation of unspent balances that grantees are required to return.

2.28 The Director of Leisure and Cultural Services has also said that LCSD will step up the follow-up actions with grantees for ensuring timely return of unspent balances to HAB.

PART 3: FUNDING FOR INTERNATIONAL SPORTS EVENTS

3.1 This PART examines ASDF's funding for hosting international sports events locally by NSAs and sports organisations, focusing on:

- (a) vetting of funding applications (paras. 3.6 to 3.11);
- (b) monitoring and evaluation of international sports events (paras. 3.12 to 3.35); and
- (c) other issues relating to international sports events (paras. 3.36 to 3.39).

International sports events

3.2 International sports events (see para. 1.7(b)) comprise:

- (a) *MMEs*. MMEs, which are organised by NSAs, are events of world championships, world class level championships (e.g. world cup, one stop of the world class series or world tour) and intercontinental championships (see Note 3 to para. 1.7(b)). MMEs are recognised as intense and spectacular, and having a signature effect in Hong Kong. In 2018-19, 4 MMEs were approved under ASDF (see Table 11 in para. 3.3). An example of MMEs is shown in Photograph 4;

Photograph 4

**Union Cycliste Internationale Track Cycling World Cup,
Hong Kong, China
(29 November to 1 December 2019)**



Source: Photograph taken by Audit on 30 November 2019

- (b) ***Major Local International Events (MLIEs).*** MLIEs, which are organised by NSAs and sports organisations, are championship and other events at a level equivalent to World, Intercontinental, Asian or major regional championships sanctioned and certified by the related International, Asian or Regional Federations; qualifying events for non-annual major competitions; and other international events in which the respective International Federations require Hong Kong to participate as a prerequisite for entry to world championships or equivalent. In 2018-19, 19 MLIEs were approved under ASDF (see Table 11 in para. 3.3). An example of MLIEs is shown in Photograph 5;

Photograph 5

Asian Judo Kata Championships 2018
(November 2018)



Source: LCSD records

- (c) **Local International Events (LIEs).** LIEs are organised by NSAs and sports organisations, and are mainly participated by Hong Kong teams. In 2018-19, 111 LIEs were approved under ASDF (see Table 11 in para. 3.3). An example of LIEs is shown in Photograph 6; and

Photograph 6

Hong Kong Open Fencing Championships 2018
(December 2018)



Source: LCSD records

- (d) **Major National Championships (MNCs).** MNCs are sanctioned by the General Administration of Sport of China (Note 16).

According to HAB, the aforementioned international sports events are commonly funded under ASDF. Different kinds of events have their own focuses, event sizes and levels. Therefore, different application requirements, amounts of grant, assessment criteria, mechanisms and monitoring arrangements are formulated (see Table 13 in para. 3.5).

3.3 Table 11 shows the numbers and grant amounts of international sports events approved under ASDF in the five-year period 2014-15 to 2018-19. Each of these events was organised in its respective year of approval or in the year following the year of approval.

Note 16: *The General Administration of Sport of China is the government agency responsible for sports in the Mainland. It is subordinate to the State Council of the People's Republic of China. It also administers the All-China Sports Federation and the Chinese Olympic Committee.*

Funding for international sports events

Table 11

Approved numbers and grant amounts of international sports events (2014-15 to 2018-19)

Year	MMEs		MLIEs		LIEs		MNCs		All events	
	No.	Amount (\$ million)	No.	Amount (\$ million)	No.	Amount (\$ million)	No.	Amount (\$ million)	No.	Amount (\$ million)
2014-15	6	18.9	9	5.4	82	13.3	Nil (Note 1)		97	37.6
2015-16	4	8.8	16	13.0	72	12.4			92	34.2
2016-17	4	11.3	11	9.2	85	13.8			100	34.3
2017-18	4	9.2	22	18.8	85	14.6			111	42.6
2018-19	4	13.8	19	17.9	111	17.8			134	49.5
Total	22 (Note 2)	62.0	77	64.3	435	71.9			534	198.2

Source: Audit analysis of HAB and LCSD records

Note 1: According to LCSD, in the period 2014-15 to 2018-19, there were no applications for organising MNCs in Hong Kong (all MNCs were organised in the Mainland).

Note 2: NSAs may organise MMEs with or without ASDF funding support. However, in order to obtain the “M” Mark status, NSAs still need to seek approval from the Government (see (b) and (c) in Table 13 in para. 3.5) for organising MMEs. In the period 2014-15 to 2018-19, 39 MMEs had been approved without ASDF funding support. The 22 MMEs do not include MMEs approved without ASDF funding support.

3.4 A number of funding support is available under ASDF for international sports events (see Table 12).

Funding for international sports events

Table 12

ASDF funding support for international sports events (2019-20)

Type of funding support	Maximum amount of grant per event	MMEs				MLIEs/ LIEs/MNCs
		Type of MMEs				
		Sustainable major sports events (i.e. repeated events)	New major sports events (i.e. events not previously organised)	World championships (i.e. events organised at different areas in the world)	Exhibition matches or tournaments	
Direct grant	MMEs — \$6 million per event MLIEs/MNCs — \$1 million per event LIEs — \$0.75 million for 3 events; \$0.6 million for 2 events; and \$0.35 million for 1 event	✗	✓	✓	✗	✓
Matching grant (Note 1)	MLIEs/MNCs — \$0.5 million per event LIEs — \$0.375 million for 3 events; \$0.3 million for 2 events; and \$0.175 million for 1 event	Note 1				✓
Marketing grant	MMEs — \$1 million per event	✗	✓	✓	✗	✗

Funding for international sports events

Table 12 (Cont'd)

Type of funding support	Maximum amount of grant per event	MMEs				MLIEs/ LIEs/MNCs
		Type of MMEs				
		Sustainable major sports events (i.e. repeated events)	New major sports events (i.e. events not previously organised)	World championships (i.e. events organised at different areas in the world)	Exhibition matches or tournaments	
Grant for venue hiring (Note 2)	MMEs/MLIEs/ MNCs — \$1 million per event LIEs — \$0.75 million for 3 events; \$0.6 million for 2 events; and \$0.35 million for 1 event	✓	✓	✓	✓	✓

Source: HAB and LCSD records

Note 1: This is a dollar-to-dollar matching for cash sponsorship secured from the commercial sector by grantees. A commitment of \$500 million under HAB's non-recurrent expenditure was approved by the Finance Committee of LegCo for the Major Sports Events Matching Grant Scheme in January 2019. Starting from 2019-20, the matching funds of MMEs have been provided by the Matching Grant Scheme instead of ASDF.

Note 2: Grant for venue hiring is provided to grantees to hire venues (e.g. bowling centres, equestrian centres, golf courses and ice rinks) that are not provided by LCSD or when all suitable LCSD venues are reserved.

Funding for international sports events

3.5 Table 13 shows the salient features of the vetting and monitoring procedures for international sports events.

Table 13

**Vetting and monitoring procedures for international sports events
(2019-20)**

		MMEs	MLIEs/MNCs	LIEs
(a)	Provision of secretariat service	HAB	LCSD	
(b)	Vetting of applications	The MSEC’s (see para. 1.14(c)) vetting panel (comprised a Convenor (i.e. a member of MSEC), a representative of HAB or LCSD, and three other members of MSEC)	LCSD’s Vetting Committee of Sports Subvention (comprised an Assistant Director of LCSD and 6 LCSD staff, i.e. 1 Senior Treasury Accountant, 1 Senior Executive Officer and 4 Chief Leisure Managers)	
(c)	Approval of applications	Secretary for Home Affairs at the recommendation of SC (see para. 1.13)	Secretary for Home Affairs	
(d)	Obligations of grantees	A grantee is required to: <ul style="list-style-type: none">• follow the requirements (e.g. acknowledgement of the Government’s support to the event in promotional publications) stipulated in the terms and conditions issued by HAB (for MMEs) or the approval letter issued by LCSD (for MLIEs, MNCs and LIEs) to the grantee• submit a programme report within a specified period of time		
(e)	Submission of programme reports (i.e. reports on achievements of events) and audited accounts by grantees	To HAB within four months after the completion of an event	To LCSD within four months after the completion of an event	To LCSD either within four months after the completion of an event or before 30 September

Table 13 (Cont'd)

		MMEs	MLIEs/MNCs	LIEs
(f)	Disbursement of grants	<p>Direct grant:</p> <ul style="list-style-type: none"> For a grant of \$1 million or more, two disbursements will be made. First disbursement after HAB's approval of the event and second disbursement after the completion of the event For a grant of less than \$1 million, the grant will be disbursed after HAB's approval of the event <p>Matching grant (Note), marketing grant and grant for venue hiring:</p> <ul style="list-style-type: none"> Disbursed upon submission of evidence of sponsorship received (for matching grant) and of expenditures paid (for marketing grant and grant for venue hiring) by grantees 	Disbursed after HAB's approval of the event	
(g)	Conduct of on-site inspections	For all MMEs	On a selective basis	

Source: HAB and LCSD records

Note: This is a dollar-to-dollar matching for cash sponsorship secured from the commercial sector by grantees. A commitment of \$500 million under HAB's non-recurrent expenditure was approved by the Finance Committee of LegCo for the Major Sports Events Matching Grant Scheme in January 2019. Starting from 2019-20, the matching funds of MMEs have been provided by the Matching Grant Scheme instead of ASDF.

Vetting of funding applications

3.6 Under ASDF, HAB with the assistance of MSEC (see para. 1.14(c)) and LCSD, deploys a scoring system to assess applications for MMEs and MLIEs respectively. Under the system, there are a total of eight assessment criteria for MMEs and nine assessment criteria for MLIEs (see Table 14).

Table 14
**Assessment criteria for MMEs and MLIEs
(2018-19)**

	Assessment criteria	MMEs	MLIEs
(a)	Age status of the event (i.e. senior or junior)	×	✓
(b)	Anticipated number of participating countries/regions	×	✓
(c)	Competitiveness of Hong Kong athletes (e.g. medals or rankings obtained)	×	✓
(d)	Economic impact (e.g. job creation and additional economic activities to be generated)	✓	×
(e)	Financial viability (e.g. high possibility to secure private and business sector sponsorship to reach 20% or above of total expenditure)	✓	×
(f)	Media coverage (i.e. expected coverage by local and overseas media including radio, television, websites, newspapers and magazines)	✓	✓
(g)	Popularity/community appeal (e.g. expected to draw a large number of participants and/or spectators)	✓	✓
(h)	Significance of the event (i.e. final, qualifying event, or prerequisite event)	✓	✓
(i)	Sports development impact (i.e. the extent to which the event will encourage wider participation in that particular sport and opportunities for local athletes to secure world ranking, etc.)	✓	✓
(j)	Status of the event (i.e. world, intercontinental, Asian, major regional, or other international event)	✓	✓
(k)	Technical and administrative quality of the organiser (e.g. capability of securing cash sponsorship)	✓	✓

Source: HAB and LCSD records

Remarks: The maximum obtainable score for each criterion ranged from 5 to 15.

3.7 A score is awarded to each assessment criterion. The maximum overall score obtainable is 100 while the passing score is 80 for MMEs and 50 for MLIEs. Effective from 2019-20, an MLIE with a score between 76 and 100 is eligible for 85% of the funds sought subject to a ceiling of \$1 million, while an event with a score between 50 and 75 is eligible for 85% of the funds sought subject to a ceiling of \$700,000.

3.8 As regards LIEs, as the funding cap is lower (see Table 12 in para. 3.4), they are subjected to a less stringent assessment and there is no scoring system deployed for LIEs (Note 17).

Need to follow guidelines in assessing funding applications

3.9 Audit examined 10 international sports events, comprising 3 MMEs, 3 MLIEs and 4 LIEs (Note 18), organised in 2017-18 and 2018-19. Audit noted that in one MLIE, the application had not been properly assessed (see Case 2).

Note 17: *As no MNCs had been organised in the past five years from 2014-15 to 2018-19 (see Table 11 in para. 3.3), Audit's examination did not cover MNCs.*

Note 18: *The 10 international sports events comprised events with approved funding amounts ranging from small to large:*

- (a) 3 MMEs from \$1.5 million to \$5.5 million;*
- (b) 3 MLIEs from some \$0.6 million to \$1 million; and*
- (c) 4 LIEs from \$50,000 to \$250,000.*

Case 2

**Assessment for an MLIE
(2016-17 and 2017-18)**

1. Under the criterion of “technical and administrative quality of the organiser” (the criterion — see (k) in Table 14 in para. 3.6), there are six sub-criteria. A score of 2 may be awarded to each of the six sub-criteria subject, but the maximum obtainable score of the criterion is 10.

2. One of the sub-criteria of the criterion is the “timeliness in submission of programme report and audited report (i.e. audited accounts) before the deadline”, which is a mandatory requirement. According to HAB’s guidelines on the scoring system, an applicant’s “failure in timely submission of the required reports (Note 1) in the last application will not attain any score in this criterion” (i.e. the maximum overall score obtainable will be 90 (100 minus 10) instead of 100 (see para. 3.7)).

3. In 2017-18, an NSA applied for ASDF funding to organise an MLIE (Event A). Audit noted that in the NSA’s last application in 2016-17, there was delay (one month) in submission of the programme report and the audited report. However, in the NSA’s 2017-18 application, instead of not attaining any score (see para. 2 above), a score of 8 (out of 10 — see para. 1 above) had still been awarded to the criterion. This score of 8 included a score of 2 awarded to the sub-criterion of “timeliness in submission of programme report and audited report before the deadline” (see para. 2 above).

4. In view of the above irregularity, Audit extended sample examination and ascertained whether the NSA had made other applications for organising MLIEs in 2016-17 and 2017-18, and if in the affirmative, whether the calculation of scores was correct. Audit noted that:

- (a) in 2017-18, the NSA had applied for another MLIE (Event B). In 2016-17, it had applied for two MLIEs (Events C and D). In each of the three applications (for Events B, C and D), despite that there was delay (1 month, 1 month and 5 months respectively) in submission of the programme report and the audited report in the last application (e.g. at the time of application of Event B, there had been delay of 1 month in submission of the programme report and the audited report in the last event organised (i.e. Event C)), a score was still awarded to the criterion; and

Case 2 (Cont'd)

- (b) for Event B, as a score had been awarded to the criterion, the event attained an overall score of 83 and the NSA was granted a funding of \$800,000 for the event. If no scores had been awarded to the criterion, the event would have attained an overall score of 75 (83 minus 8) and the NSA would only have been granted \$500,000 (Note 2).

5. In all four events (Events A, B, C and D), no justifications had been provided for awarding scores to the criterion despite the delays in the submission of programme reports and audited reports in the last applications.

Audit comments

6. LCSD (Note 3) needs to ensure that HAB's guidelines are followed in assessing ASDF funding applications.

Source: Audit analysis of HAB records

Note 1: A grantee is required to submit a programme report and an audited report at the same time.

Note 2: For 2017-18, an event with a score between 76 and 100 was eligible for 70% of the funds sought subject to a ceiling of \$800,000, while an event with a score between 50 and 75 was eligible for 70% of the funds sought subject to a ceiling of \$500,000.

Note 3: LCSD vets MLIE applications for HAB (see (a) and (b) in Table 13 in para. 3.5).

Audit recommendations

3.10 Audit has recommended that the Director of Leisure and Cultural Services should:

- (a) **in vetting ASDF funding applications, ensure that HAB's guidelines are followed in assessing the timeliness of submission of programme reports and audited reports by applicants; and**
- (b) **to enhance transparency and accountability, in circumstances where a score is awarded to the criterion of "technical and administrative quality of the organiser" despite that there is delay in submission of**

programme reports and audited reports in the last application, provide and document justifications for awarding the score.

Response from the Government

3.11 The Director of Leisure and Cultural Services accepts the audit recommendations. He has said that LCSD will work with HAB to:

- (a) re-assess the timelines for submission of programme reports and devise a new assessment mechanism to differentiate different degree of late submission and assessment consequences. New designated assessment form for MLIEs will also be devised accordingly if considered necessary; and
- (b) refine the assessment mechanism to ensure that applications from an NSA with late submission of required reports in the last application would not be awarded scores unless there are acceptable reasons for the late submission. Such justifications would be clearly documented. LCSD would also revise the application form to clearly state the above arrangement in order to highlight to NSAs the importance of timely submission of the required reports.

Monitoring and evaluation of international sports events

Scope for improvement in performance reporting

3.12 HAB monitors the achievements of MMEs, while LCSD monitors the achievements of MLIEs and LIEs (see (a) and (e) in Table 13 in para. 3.5). Grantees of MMEs, MLIEs and LIEs are required to submit to HAB/LCSD before specified deadlines (see (e) in Table 13 in para. 3.5) the following documents:

- (a) ***Programme reports.*** Grantees are required to report the achievements of their events in their programme reports; and
- (b) ***Audited accounts.*** Audited accounts comprise an audited statement of accounts of the event and an auditor's report providing its assurance that

the grantee complies with grant requirements (e.g. requirements on procurement and on declaration of conflicts of interest on procurement).

3.13 Since 2015-16, to ensure timely submission of programme reports and audited accounts by grantees, HAB and LCSD have implemented the following enhanced measures:

- (a) if a grantee failed to submit programme report and audited accounts after the submission deadline, HAB/LCSD will immediately send a reminder to the grantee to request the grantee to submit the report and accounts. If the grantee still failed to submit the report and accounts, HAB/LCSD will send a final reminder one month after the submission deadline;
- (b) if the grantee failed to submit the report and/or accounts after the ultimate deadline of six months after the completion of the event, the grantee should be liable to refund the ASDF grant, calculated as 1 % of the approved grant amount for every month of further delay (i.e. from the sixth month onwards), until the grantee submits the programme report and audited accounts; and
- (c) HAB/LCSD reserves the right to suspend processing new funding applications from the grantee until the programme report and audited accounts are submitted.

3.14 *Need to step up efforts in ensuring timely submission of programme reports and audited accounts.* Audit examined the submission of programme reports and audited accounts for MMEs, MLIEs and LIEs by grantees in the period 2014-15 to 2018-19. Audit noted that after the implementation of the enhanced measures (see para. 3.13) in 2015-16, the delays in submission of programme reports and audited accounts had been reduced (with some significantly reduced). For example, for LIEs, the average delay had been reduced from 9.3 months to 0.6 month. Nevertheless, as shown in Table 15, notwithstanding the enhanced measures, between 2015-16 and 2018-19, the percentage of events with delay in submission of programme reports and audited accounts had either remained the same (at 75 % for MMEs) or was on the increase (from 60 % to 78 % for MLIEs and from 6 % to 10 % for LIEs).

Table 15

**Delay in submission of programme reports and audited accounts
(2014-15 to 2018-19)**

Year	MMEs		MLIEs		LIEs	
	No. of events					
	Approved and organised (Note)	With delay in submission of reports and accounts	Approved and organised (Note)	With delay in submission of reports and accounts	Approved and organised (Note)	With delay in submission of reports and accounts
2014-15	6	5 (83%)	9	9 (100%)	78	2 (3%)
2015-16	4	3 (75%)	15	9 (60%)	67	4 (6%)
2016-17	4	3 (75%)	11	8 (73%)	80	2 (3%)
2017-18	4	3 (75%)	22	15 (68%)	76	1 (1%)
2018-19	4	3 (75%)	18	14 (78%)	107	11 (10%)
Extent of delay before and after implementation of enhanced measures (see para. 3.13)						
Before implementation	0.3 to 5.1 months (average: 1.9 months)		0.1 to 9.6 months (average: 3.4 months)		8.4 to 10.1 months (average: 9.3 months)	
After implementation	0.2 to 4.2 months (average: 2.1 months)		0.1 to 4.1 months (average: 1.6 months)		0.1 to 2.5 months (average: 0.6 month)	

Source: Audit analysis of HAB and LCSD records

Note: The figures excluded the number of cancelled events.

3.15 Audit considers that HAB and LCSD need to step up efforts in ensuring timely submission of programme reports and audited accounts by grantees, including taking measures against those grantees that are frequently late in submitting their reports and accounts (e.g. the grantee mentioned in Case 2 in para. 3.9).

3.16 *Need to address inadequacies relating to submitted programme reports and audited accounts.* Audit further noted from examining the 3 MMEs, 3 MLIEs and 4 LIEs (see para. 3.9) that there were inadequacies relating to submitted programme reports and audited accounts:

- (a) there were significant variances between the estimated and actual amounts of expenditure or between those of income:
 - (i) in March 2020, HAB informed Audit that it was not mandatory for grantees to provide the explanations for the said variances. Of the 3 MLIEs and 4 LIEs, Audit noted that:
 - in 2 MLIEs and 2 LIEs, the estimated amounts of expenditure were higher than the actual amounts of expenditure with variances ranging from 31 % (\$27,092) to 58 % (\$351,769); and
 - in 2 MLIEs and 2 LIEs, the estimated amounts of income were higher than the actual amounts of income with variances ranging from 27 % (\$854,408) to 100 % (\$1,568,142). In an LIE, the actual amount of income was \$9,000, but the grantee did not provide any income estimation; and
 - (ii) for MMEs, grantees were not required to report any aforementioned variances. In 2 of the 3 MMEs, Audit noted that there were variances of 28 % (\$2,109,505) and 37 % (\$1,379,265) between estimated and actual amounts of expenditure, and variances of 37 % (\$3,028,273) and 42 % (\$1,711,834) between estimated and actual amounts of income. In both of the 2 MMEs, the estimated expenditures and incomes were higher than the actual ones.

In view of the significant variances, to enhance project monitoring, Audit considers that HAB and LCSD need to require grantees to provide in their programme reports explanations for variances over 25 % between the estimated and actual amounts of expenditure as well as between the estimated and actual amounts of income, and take follow-up actions where warranted;

- (b) the assurance provided in the auditors' reports submitted by the grantees varied. In 5 of the 10 events (see para. 3.9), the auditors certified the

grantees' compliances with HAB/LCSD requirements. However, in the remaining 5 events, there was no such certification. For example, the auditor only stated that "the statement of income and expenditure is properly drawn up in accordance with the books and records" of the grantee; and

- (c) for an MLIE, the grantee failed to submit the programme reports and audited accounts before the deadline. However, no reminders had been issued to the grantee in accordance with the enhanced measures (see para. 3.13). For this MLIE, there was a two-month delay in submission.

3.17 HAB and LCSD need to take measures to deal with the aforementioned inadequacies (see paras. 3.31(a), 3.32(a) and (b), and 3.33(b) for detailed audit recommendations).

3.18 *Scope for improvement in reporting achievements of international sports events.* In examining the 3 MMEs, 3 MLIEs and 4 LIEs (see para. 3.9), Audit noted that:

- (a) in 3 MLIEs and 4 LIEs, of a total of 44 performance targets, 9 targets had been achieved. However:
 - (i) for 6 targets, the targets had not been achieved; and
 - (ii) for 29 targets, the achievements had not been reported.

Case 3 shows an example; and

Case 3

**Reporting of achievements for an MLIE
(2017-18)**

1. The performance targets for an MLIE (a skating event) were as follows:

Performance targets	
(a) Expected number of athletes	<ul style="list-style-type: none"> • 120 overseas athletes • 30 local athletes
(b) Expected number of technical officials	<ul style="list-style-type: none"> • 20 overseas technical officials • 7 local technical officials
(c) Expected number of officials	<ul style="list-style-type: none"> • 5 Asian Skating Union officials • 10 local officials
(d) Expected number of spectators	<ul style="list-style-type: none"> • 10,000 spectators
(e) Expected achievement of Hong Kong team/athletes for this event	<ul style="list-style-type: none"> • Achieve a medal in each group (there were a total of 11 groups with each group participating in a different type of skating (e.g. pairs, junior men, junior ladies))
(f) Anticipated number of participating countries/regions	<ul style="list-style-type: none"> • 9 to 12 countries/regions
(g) Media coverage	<ul style="list-style-type: none"> • With delay television/network broadcast by local and/or overseas media • With designated official website • With live broadcast at official website • With video highlights at official website • With video advertisement • With social media promotion (e.g. radio and social networking website) • With text media (e.g. newspaper and magazine)
(h) Popularity/community appeal	<ul style="list-style-type: none"> • Newspaper and magazine interview • Social networking website advertisement (3 posts and 7 days per post) • Live stream, daily highlight and newspaper • Four Figure Skating shows • Figure Skating demonstration • Countdown ceremony • Asian Skating Union annual meeting • Coaching seminar • Figure Skating Fun Day

Case 3 (Cont'd)

Performance targets	
(i) Free or concessionary tickets issued for under-privileged groups, the elderly or schools	<ul style="list-style-type: none"> • 40 free tickets for under-privileged group per day for 4 days • 40 free tickets for schools
(j) Local organisations, affiliated clubs, community sport clubs, and volunteer services groups involved	<ul style="list-style-type: none"> • Hong Kong St. John Ambulance: first-aid service • Hong Kong Baptist University: invite 10 to 15 event helpers • Hong Kong University School of Professional and Continuing Education: invite 10 to 15 event helpers
(k) Sports development impact	<ul style="list-style-type: none"> • Asian Skating ranking points for the winner of this event • Estimate 3 to 5 local officials will be invited to participate in the event (will have a chance to be nominated to attend the International Skating Union Officials Training Course after the event) • A series of sport demonstration and fun day • Figure Skating Coaching Seminar and Figure Skating Officials course (estimate 15 to 20 participants) • Asian Skating Union annual meeting (estimate 50 overseas participants from 16 countries and 3 participants from Hong Kong)

2. In the programme report:

(a) *Performance targets not achieved.* The grantee reported that:

- (i) the event had 141 athletes (falling short of the expected number of athletes of 150 — see para. 1(a));
- (ii) the event had a total of about 3,000 spectators (falling short of the expected 10,000 (see para. 1(d)) significantly by about 7,000); and
- (iii) no free tickets had been issued (as against a total of 200 free tickets expected to be issued — see para. 1(i));

Case 3 (Cont'd)

- (b) ***Achievements not reported.*** The grantee had not reported any achievements on the:
- (i) expected number of technical officials;
 - (ii) expected number of officials;
 - (iii) expected achievement of Hong Kong team/athletes for this event;
 - (iv) anticipated number of participating countries/regions;
 - (v) media coverage;
 - (vi) popularity/community appeal;
 - (vii) local organisations, affiliated clubs, community sport clubs, and volunteer services groups involved; and
 - (viii) sports development impact; and
- (c) While some achievements were not reported (see para. 2(b) above), the grantee stated that the following achievements had been made:
- (i) promoting skating sports in Hong Kong;
 - (ii) increasing skating ability of Hong Kong skaters; and
 - (iii) providing practical training for Hong Kong judges.

There was, however, no elaboration on what had been achieved (e.g. the types and numbers of training sessions provided).

3. In March 2020, HAB informed Audit that notwithstanding the setting of performance target thereon, the number of spectators was not an important performance target to be achieved under the funding as the vision of providing funding for MLIEs and LIEs was to encourage international sports events to take place in Hong Kong and bring exposures to the athletes of the respective sports.

Source: Audit analysis of LCSD records

- (b) in all the 3 MLIEs and 4 LIEs, there was no evidence indicating that LCSD had taken any follow-up actions.

3.19 Audit considers that LCSD needs to take measures to ensure that MLIE and LIE grantees adequately and clearly report their event achievements against performance targets, and take follow-up actions in situations where the targets are not achieved and/or the achievements are not properly reported.

Scope for improvement in conducting on-site inspections

3.20 For performance monitoring purpose, in addition to evaluating grantees' programme reports and audited accounts, HAB and LCSD conduct on-site inspections at MMEs, MLIEs and LIEs. After the conduct of inspections, HAB and LCSD staff record, in inspection reports, the details of inspections including the date of visit, the venue and nature of the event, the number of participants (i.e. athletes), the number of spectators, and the level of satisfaction of HAB/LCSD staff with respect to, for example, programme organisation and venue decoration.

3.21 According to HAB records, in 2018-19, 4 MMEs (Note 19), 19 MLIEs and 95 LIEs were organised by 55 NSAs and 1 sports organisation. Audit examined the on-site inspection records of HAB and LCSD for these events and noted that:

- (a) according to HAB, it was its practice that inspections are conducted for all MMEs. According to LCSD, it conducted inspections at MLIEs and LIEs on a selective basis. Therefore, HAB conducted inspections at all the 4 MMEs, while LCSD conducted inspections at 17 (out of 19) MLIEs and 49 (out of 95) LIEs. However, for 2 of the 17 MLIEs and 11 of the 49 LIEs inspected by LCSD, there were no inspection reports documenting the details of inspections; and
- (b) LCSD had not laid down guidelines on selection of MLIEs and LIEs for on-site inspections. It was therefore not known as to the basis on which LCSD decided that no inspections would be conducted for any of the MLIEs and LIEs organised by 11 (out of 55) NSAs and 1 sports organisation (see Table 16).

Note 19: *The 4 MMEs did not include MMEs organised without ASDF funding support (see Note 2 to Table 11 in para. 3.3).*

Table 16

**MLIEs and LIEs organised by 11 NSAs and 1 sports organisation
with no on-site inspections conducted
(2018-19)**

NSA/sports organisation	No. of events organised	
	MLIE	LIE
NSA 1	Nil	3
NSA 2		3
NSA 3		3
NSA 4		2
NSA 5	1	1
NSA 6	Nil	1
NSA 7		1
NSA 8		2
NSA 9		1
NSA 10		2
NSA 11		1
A sports organisation		1
Total	1	21

Source: Audit analysis of HAB and LCSD records

3.22 Audit further examined the 3 MMEs, 3 MLIEs and 4 LIEs (see para. 3.9) and noted that for these 10 events, HAB had conducted on-site inspections for 3 MMEs, while LCSD had conducted such inspections for 2 MLIEs and 1 LIE. Audit found that:

- (a) in 1 MLIE and the LIE, some information (e.g. the number of spectators) was missing in the inspection reports;
- (b) LCSD had not laid down guidelines on the number of on-site inspections to be conducted for events that were held for a number of days. For the other MLIE with inspection conducted, the event was held for four days. The LCSD staff had only conducted an inspection in one of the four days. According to the inspection report, the number of participants and spectators on that day was 200. To ensure that inspections conducted are sufficient for performance monitoring purpose, LCSD needs to issue

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guidelines on the number of on-site inspections to be conducted for events that are held for a number of days; and

- (c) for the LIE with inspection conducted, the event was held for one day. In LCSD's inspection report, the number of spectators was not reported. Instead, it was stated that there were "more than 200 participants" on that day. On the other hand, in the grantee's programme report, it was stated that there were "1,000 spectators" on that day. There was no evidence indicating that LCSD had taken any follow-up actions to clarify the differences.

3.23 LCSD needs to take measures to tackle the aforementioned inadequacies (see para. 3.32(d) to (g) for detailed audit recommendations).

Scope for improvement in returning surpluses and unspent balances by grantees

3.24 Grantees of MMEs, MLIEs and LIEs are required to return any surpluses (for MMEs) or unspent balances (for MLIEs and LIEs) generated from the events to the Government. The related details are as follows:

- (a) for an MME, the surplus is:

*the total amount of incomes (including commercial and private sponsorship, ticket sales and ASDF grants) **minus** the total amount of expenditures of the event;*

- (b) for an MLIE or LIE, the unspent balance is:

*the total amount of ASDF grants **minus** the total amount of eligible expenditures (e.g. wages for referees and organisers) of the event;*

- (c) surplus, with interest generated from that surplus, must be returned to the Government if the grantee does not organise any MMEs in four consecutive years; and

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- (d) the grantee of an MLIE or LIE is required to return any unspent balance to the Government after the completion of the event.

3.25 *Need to review the arrangements for returning surpluses and unspent balances.* Based on grantees' audited accounts, Audit analysed the incomes and expenditures of 4 MLIEs and 6 LIEs (these events had other incomes (e.g. sponsorships and ticket sales) in addition to ASDF grants) organised in the period 2014-15 to 2018-19. Results of Audit's analysis are shown in Table 17.

Table 17

Analysis of incomes and expenditures of 4 MLIEs and 6 LIEs (2014-15 to 2018-19)

Year organised	Event	ASDF grant	Other income	Total income	Total expenditure	Surplus/ (deficit)
		(a)	(b)	(c) = (a) + (b)	(d)	(e) = (c) – (d)
		(\$)				
2014-15	LIE A	68,653	46,186	114,839	129,659	(14,820)
2015-16	MLIE A	879,355	1,794,447	2,673,802	971,792	1,702,010
2016-17	MLIE B	776,234	474,009	1,250,243	900,246	349,997
2017-18	MLIE C	639,787	551,240	1,191,027	1,143,884	47,143
2017-18	LIE B	379,773 (Note)	27,200	561,642	92,809	19,109
	LIE C		16,000		60,148	
	LIE D		138,669		389,576	
	Overall	379,773	181,869	561,642	542,533	19,109
2017-18	LIE E	332,491 (Note)	58,863	519,054	256,848	33,354
	LIE F		127,700		228,852	
	Overall	332,491	186,563	519,054	485,700	33,354
2018-19	MLIE D	1,000,000	1,259,692	2,259,692	2,220,706	38,986

Source: Audit analysis of LCSD records

Note: The NSA concerned submitted one funding application covering a number of LIEs. ASDF grants were therefore provided in a lump sum.

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3.26 As shown in Table 17, with the exception of LIE A, all the other 4 MLIEs and 5 LIEs had surpluses ranging from \$19,109 to about \$1.7 million. In the case of MLIE A that had a surplus of about \$1.7 million, the event could have been organised without ASDF funding support. Nevertheless, despite the surpluses, contrary to the arrangement that MME grantees need to return their surpluses (if they do not organise any MMEs in four consecutive years) to the Government (see para. 3.24(c)), the grantees of the 4 MLIEs and 5 LIEs are not required to do so (they are only required to return their unspent balances (i.e. the total amount of ASDF grants minus the total amount of eligible expenditures) (see para. 3.24(b)).

3.27 Audit considers that HAB needs to review the existing arrangements for returning surpluses of MMEs and unspent balances of MLIEs and LIEs to ascertain the need to align or modify the arrangements.

3.28 *Need to ensure surpluses and unspent balances are timely returned.* For the return of unspent balances of MLIEs and LIEs to the Government, upon receipt of audited accounts from grantees, LCSD verifies the amounts to be returned and issues letters to demand the return of unspent balances. Grantees are required to return the unspent balances within around two weeks from the dates of issuing request letters. Audit, however, noted that a long time had elapsed (e.g. some 10 months) before the unspent balances of some MLIEs and LIEs organised in the period 2014-15 to 2018-19 were returned to the Government (see Table 18).

Table 18

**Time elapsed before returning unspent balances of MLIEs and LIEs
(31 October 2019)**

Year	MLIEs				LIEs			
	3 months or less	More than 3 months to 6 months	More than 6 months to 1 year	More than 1 year	3 months or less	More than 3 months to 6 months	More than 6 months to 1 year	More than 1 year
	(No. of events)							
2014-15	3	Nil	Nil	Nil	31	5	1	Nil
2015-16	2	2			22	5	7	
2016-17	2	1			27	4	6	
2017-18	7	1			15	1	Nil	
2018-19	6	1			36	6	3	
Overall	0.6 month to 10.8 months (average: 2.3 months)				1 day to 10.1 months (average: 2.2 months)			

Source: Audit analysis of LCSD records

Remarks: The time elapsed was counted from the date of receipt of audited accounts by LCSD to the date of returning the unspent balance by a grantee. LCSD did not keep readily available information on the dates of issuing request letters to grantees.

3.29 Audit's examination of the 4 MLIEs and 6 LIEs (see para. 3.25) as well as the two extreme cases mentioned in Table 18 above (i.e. 10.8 months for an MLIE and 10.1 months for an LIE) further revealed that a major reason for the long lapse of time was the long time taken by LCSD to verify the amounts of unspent balances and issue request letters to grantees. Examples are shown in Table 19.

Table 19**Analysis of time elapsed before returning unspent balances**

Event	Date of receipt of audited accounts by LCSD	Date of issuing request letter by LCSD	Date of return of unspent balance by grantee	Time elapsed (d) = Time between (a) and (c)
(a)	(b)	(c)		
An MLIE	5.10.2016	5.12.2016 (after 2.0 months of receipt of audited accounts)	8.12.2016	2.1 months
3 LIEs (Note)	28.9.2018	8.11.2018 (after 1.4 months of receipt of audited accounts)	12.11.2018	1.5 months

Source: Audit analysis of LCSD records

Note: The 3 LIEs were organised by the same grantee. The grantee submitted one audited accounts for the 3 LIEs to LCSD.

3.30 To ensure that unspent balances are returned in a timely manner, Audit considers that LCSD needs to identify scope for expediting the verification of amounts of unspent balances to be returned by grantees and the issue of request letters to them.

Audit recommendations

3.31 **Audit has recommended that the Secretary for Home Affairs should:**

- (a) **require MMEs grantees to provide in their programme reports explanations for variance over 25% between the estimated and actual amounts of expenditure as well as between the estimated and actual amounts of income, and take follow-up actions where warranted (see para. 3.16(a)(ii)); and**

- (b) **review the existing arrangements for returning surpluses of MMEs and unspent balances of MLIEs and LIEs to ascertain the need to align or modify the arrangements (see para. 3.27).**

3.32 Audit has *recommended* that the Director of Leisure and Cultural Services should:

- (a) **require MLIE and LIE grantees to provide in their programme reports explanations for variance over 25% between the estimated and actual amounts of expenditure as well as between the estimated and actual amounts of income, and take follow-up actions where warranted (see para. 3.16(a)(i));**
- (b) **in accordance with the enhanced measures (see para. 3.13(a)), issue reminders to MLIE and LIE grantees that failed to submit programme reports and audited accounts before the stipulated deadlines (see para. 3.16(c));**
- (c) **take measures to ensure that MLIE and LIE grantees adequately and clearly report their event achievements against performance targets, and take follow-up actions in situations where the targets are not achieved and/or the achievements are not properly reported (see para. 3.19);**
- (d) **take measures to ensure that all details of on-site inspections conducted for MLIEs and LIEs are documented (see paras. 3.21(a) and 3.22(a));**
- (e) **set guidelines on the selection of MLIEs and LIEs for on-site inspections (see para. 3.21(b));**
- (f) **issue guidelines on the number of on-site inspections to be conducted for MLIEs and LIEs that are held for a number of days (see para. 3.22(b));**
- (g) **in circumstances where there are differences between the information stated in LCSD's inspection reports and that stated in grantees' programme reports submitted to LCSD, take follow-up actions to clarify the differences (see para. 3.22(c)); and**

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- (h) **identify scope for expediting the verification of amounts of unspent balances to be returned by MLIE and LIE grantees and the issue of letters to request them to return the unspent balances (see para. 3.30).**

3.33 Audit has *recommended* that the Secretary for Home Affairs and the Director of Leisure and Cultural Services should:

- (a) **step up efforts in ensuring timely submission of programme reports and audited accounts by MME, MLIE and LIE grantees, including taking measures against those grantees that are frequently late in submitting their reports and accounts (see para. 3.15); and**
- (b) **take measures to ensure that auditors of MME, MLIE and LIE grantees certify the grantees' compliances with HAB/LCSD requirements (e.g. by notifying grantees the need for auditors' certification) (see para. 3.16(b)).**

Response from the Government

3.34 The Secretary for Home Affairs and the Director of Leisure and Cultural Services accept the audit recommendations. They have said that HAB and LCSD will:

- (a) review the relevant guidelines for the MME, MLIE and LIE grantees to provide explanations for variances over 25% between estimated and actual amount of expenditure. Related information will be required in the new programme report for future reference;
- (b) review and examine the need for aligning the existing arrangements for returning surpluses for MMEs and unspent balances of MLIEs and LIEs;
- (c) review the assessment mechanism for MLIEs and LIEs and clarify to what extent explanation for variation against the performance target would be required and modify the programme report proforma accordingly; and

- (d) modify the relevant guidelines for MME, MLIE and LIE grantees to ensure that their auditors certify the grantees' compliance with HAB/LCSD requirements.

3.35 The Director of Leisure and Cultural Services has also said that LCSD will:

- (a) issue reminders to chase up late submission of programme reports and audited accounts as well as review and enhance the follow-up mechanism with a view to deterring protracted late submission;
- (b) devise a set of guidelines and checklist of on-site inspection for MLIEs and LIEs;
- (c) review and improve the monitoring system for on-site inspection; and
- (d) step up the follow-up actions for ensuring timely return of unspent balances.

Other issues relating to international sports events

Need to improve the reporting of information on international sports events to LegCo

3.36 From time to time, HAB reports information on international sports events to LegCo. Audit noted that in the period 2013-14 to 2017-18, on several occasions, there was room for improvement in reporting information on international sports events to LegCo, as follows:

- (a) for the examination of the Estimates of Expenditure 2018-19, a LegCo Member asked about the use of grants from ASDF in 2017-18, which included the number of projects and amount approved for the hosting of major international sports events in Hong Kong. HAB replied that there was a total of 30 projects for hosting of major international sports events in 2017-18 (as at 28 February 2018) with an approved amount of \$41.63 million. Audit, however, noted that, instead of providing the number of projects approved in 2017-18, HAB provided to LegCo the number of projects comprising: (i) the number of MMEs approved in 2016-17 and 2017-18 with fund disbursed in 2017-18; (ii) the number of

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MLIEs approved and with fund disbursed in 2017-18; and (iii) the number of batches of fund disbursements of LIEs in 2017-18. Furthermore, the amount of \$41.63 million reported by HAB was actually the amount of funds disbursed for the projects;

- (b) in a paper to the LegCo Panel on Home Affairs dated May 2018, HAB stated that the number of international sports events hosted locally for the period from 1 April 2013 to 31 March 2018 was 509 with an approved amount of \$157.63 million. Audit, however, noted that the reported figure of 509 and reported amount of \$157.63 million were actually the number of fund disbursements and the amount of funds disbursed respectively; and
- (c) in a paper to the LegCo Finance Committee dated December 2018, HAB stated that the number of international sports events hosted locally for the period from 1 April 2015 to 31 March 2018 was 313 with an approved amount of \$105.93 million. As in (b) above, the reported figure of 313 and reported amount of \$105.93 million were actually the number of fund disbursements and the amount of funds disbursed respectively.

Details are shown in Table 20.

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Table 20

**Approved numbers and approved amounts of international sports events
reported by HAB versus those found by Audit
(2013-14 to 2017-18)**

Event	Reported by HAB		Found by Audit	
	No.	Amount (\$ million)	No.	Amount (\$ million)
<i>Reported in a written reply to a LegCo Member's question on Estimates of Expenditure 2018-19 (Period reported: 2017-18 (as at 28 February 2018))</i>				
MME	Not required to be individually reported		4	9.19
MLIE			21	18.02
LIE			85	14.60
Total	30	41.63	110	41.81
<i>Reported in a paper of May 2018 concerning endorsement by the LegCo Panel on Home Affairs for injection of funds into ASDF (Period reported: 1 April 2013 to 31 March 2018)</i>				
MME	39	Not required to be individually reported	22	57.45
MLIE	67		67	52.07
MNC (Note)	1		1	0.80
LIE	402		402	66.91
Total	509	157.63	492	177.23
<i>Reported in a paper of December 2018 concerning approval by the LegCo Finance Committee for injection of funds into ASDF (Period reported: 1 April 2015 to 31 March 2018)</i>				
MME	22	Not required to be individually reported	12	29.29
MLIE	49		49	40.98
LIE	242		242	40.79
Total	313	105.93	303	111.06

Source: Audit analysis of HAB records

Note: An MNC was approved in 2013-14. In the period 2014-15 to 2018-19, no MNCs were organised.

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3.37 In March 2020, HAB informed Audit that the discrepancies were caused by the inadvertent errors in counting the number of disbursement of funds related to MMEs as the number of MMEs. Since MMEs require a longer period for preparation and finalisation of accounts, funds are normally disbursed to the event organisers by instalments. HAB has provided separate reports on MMEs to LegCo from time to time and the information therein is accurate. Audit considers that, for proper accountability, HAB needs to improve the reporting of information relating to international sports events to LegCo in future.

Audit recommendation

3.38 Audit has *recommended* that the Secretary for Home Affairs should improve the reporting of information relating to international sports events to LegCo in future.

Response from the Government

3.39 The Secretary for Home Affairs accepts the audit recommendation.

PART 4: FUNDING FOR FOOTBALL DEVELOPMENT

4.1 This PART examines funding for football development under ASDF, focusing on the following areas:

- (a) governance of HKFA (paras. 4.7 to 4.20);
- (b) human resource management (paras. 4.21 to 4.34);
- (c) attendance of spectators and self-generated incomes (paras. 4.35 to 4.44);
and
- (d) performance measurement and other administrative issues (paras. 4.45 to 4.66).

Background

4.2 HKFA, which is a member of the Fédération Internationale de Football Association (FIFA), the Asian Football Confederation (AFC), the East Asian Football Federation (EAFF) and SF&OC, is an NSA in Hong Kong, China responsible for promoting football development in Hong Kong and operating the Hong Kong football team, which represents Hong Kong to compete in international football events (see Photograph 7 for an example). Like all other NSAs, HKFA is an independent legal entity with full autonomy to run its affairs. As mentioned in paragraph 1.7(c), ASDF provides funding to HKFA for the development of local football through the implementation of football development plans (see Figure 2 for details).

Photograph 7

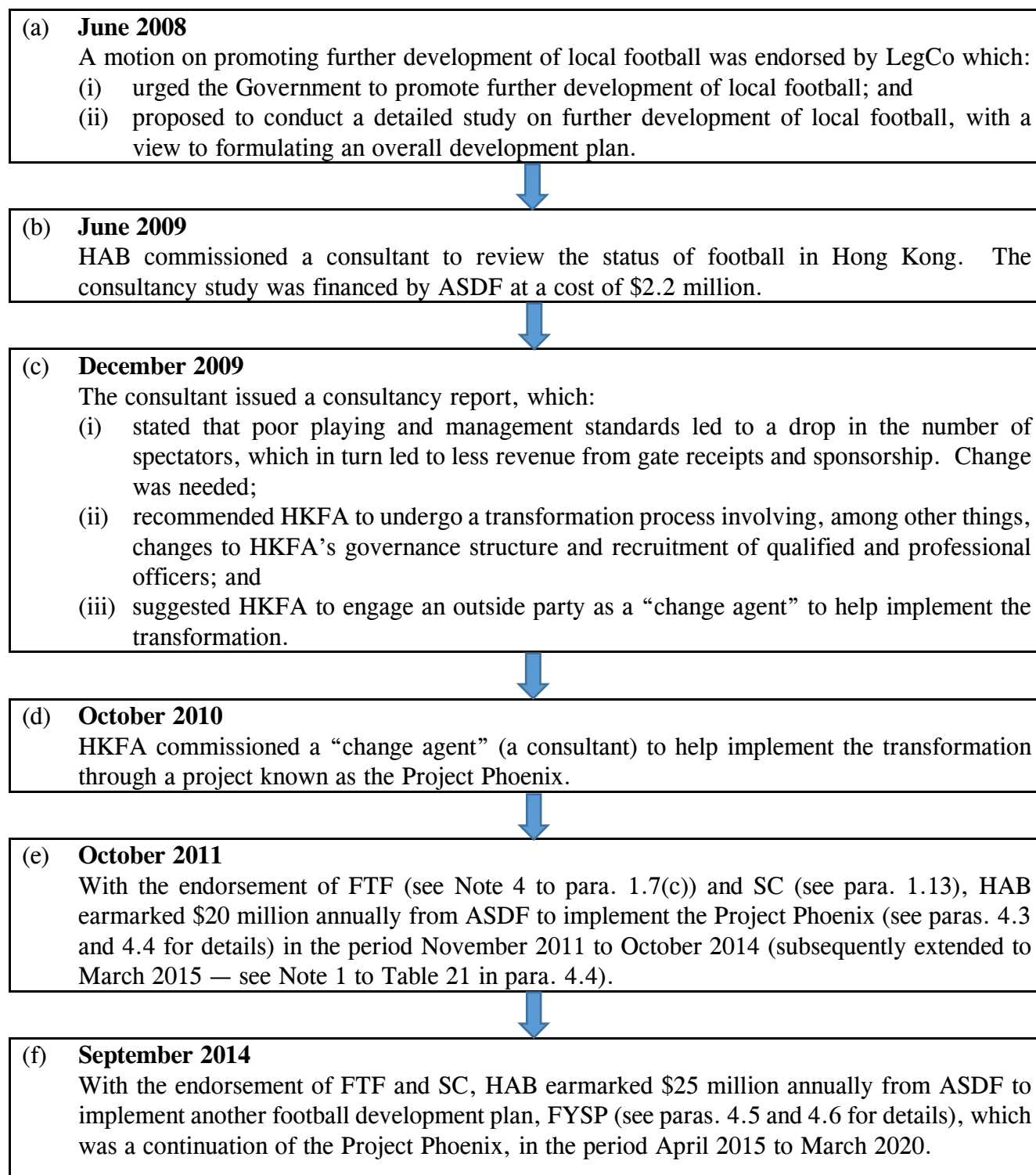
**FIFA World Cup Asian Qualifying Match
between Hong Kong and Iran
(September 2019)**



Source: HKFA records

Figure 2

**Background of football development under ASDF
(June 2008 to March 2020)**



Source: HAB records

Funding for football development

Project Phoenix

4.3 The Project Phoenix (see (e) in Figure 2 in para. 4.2) involved two phases:

- (a) the first phase concerned the transformation of HKFA to develop it into a world-class governing body; and
- (b) the second phase concerned the selection and recruitment of key personnel to deliver changes and improvements.

4.4 Table 21 shows the amounts of funds disbursed for the Project Phoenix in the period November 2011 to March 2015.

Table 21

**Funds disbursed for the Project Phoenix
(November 2011 to March 2015)**

Funds for	November 2011 to October 2012	November 2012 to October 2013	November 2013 to October 2014	November 2014 to March 2015 (Note 1)	Total
	(\$ million)				
Staff and related costs	2.1	20.0	18.4	7.7	48.2
Other expenses (Note 2)	2.1	0.9	2.1	1.6	6.7
Total	4.2	20.9	20.5	9.3	54.9

Source: HKFA records

Note 1: As HKFA had not exhausted ASDF's \$60 million (three years at \$20 million per year) funding support at the end of the funding period (i.e. October 2014), HAB approved HKFA's application to extend the funding period to March 2015 (see (e) in Figure 2 in para. 4.2).

Note 2: Other expenses included insurances, information technology (IT) expenses, marketing expenses and programme expenses (e.g. air ticket costs and accommodation expenses of football teams).

FYSP

4.5 In mid-2014, FTF conducted an overall review of the Project Phoenix and concluded that HKFA had made reasonable progress in developing football in Hong Kong through the implementation of the Project. However, for the change agent's recommendations relating to marketing and public relations (e.g. developing a new marketing and communications strategy, and placing greater emphasis on developing excellent relationships with all stakeholders), the progress had yet to be seen. FTF considered that HKFA needed to do more to develop a branding and marketing strategy that could attract more sponsorship income and reduce reliance on public funding. To follow up on the progress made, HKFA prepared and put forward FYSP (see (f) in Figure 2 in para. 4.2) which was based on the groundwork done under the Project Phoenix.

4.6 Table 22 shows the amounts of funds disbursed for FYSP in the period 2015-16 to 2018-19.

Table 22

**Funds disbursed for FYSP
(2015-16 to 2018-19)**

Funds for	2015-16	2016-17	2017-18	2018-19	Total
	(\$ million)				
Staff and related costs	17.3	18.6	18.8	18.2	72.9
Other expenses (Note)	3.8	3.6	2.5	3.1	13.0
Total	21.1	22.2	21.3	21.3	85.9

Source: HKFA records

Note: Other expenses included insurances, IT expenses, marketing expenses and programme expenses (e.g. air ticket costs and accommodation expenses of football teams).

Governance of Hong Kong Football Association

4.7 According to a 2014 FTF paper relating to the review of the implementation of the Project Phoenix, HKFA had completed the recommendations of the Project Phoenix in the areas of the governance structure and constitution, vision, strategy and business planning, and organisational structure. In the football season 2018/19 (Note 20), the governance structure of HKFA included the Board, 14 committees and 3 sub-committees (see Appendix D). While the Board of HKFA is responsible for the governance of HKFA, HAB is responsible for the provision of ASDF funding for HKFA to implement football development plans which, among others, aimed to raise HKFA's standard of governance. Audit reviewed issues relating to the governance of HKFA for the football seasons 2014/15 to 2018/19 (Note 21) and found that there is scope for improvement as shown in paragraphs 4.8 to 4.18.

Need to improve attendance of individual members at meetings

4.8 To help ensure that collective and good quality decision making is made, it is important that members of an organisation's board and committees (and sub-committees if applicable) attend their meetings. Audit examined members' attendance at meetings of HKFA's Board, committees and sub-committees held in the football seasons 2014/15 to 2018/19, and found that there were some members who had attended less than half of the Board/committee/sub-committee meetings in individual football season (see Table 23) (Note 22).

Note 20: *A football season starts in July and ends in June in the ensuing year.*

Note 21: *Some of HKFA's records were available in financial years, while some others were available in accordance with football seasons. For the latter, they are specifically stated in this PART.*

Note 22: *In the football seasons 2014/15 to 2018/19, the overall attendance rates of members of the Board, committees and sub-committees were over 50%, ranging from 54% to 94%.*

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Table 23

**Individual members attended less than half of
the HKFA Board/committee/sub-committee meetings
(Football seasons 2014/15 to 2018/19)**

	No. of meetings held in a year	Attendance rate for football season				
		2014/15	2015/16	2016/17	2017/18	2018/19
Member A						
The Board	6 to 9	0%	14%	0%	0%	0%
Member B						
The Board	6 to 9	0%	N.A. (Note 1)			
Member C						
The Board	6 to 9	78%	71%	100%	17%	71%
Member D						
Competitions Committee	1 to 4	N.A. (Note 2)		50%	100%	50%
Legal Committee	1 to 2	0%	0%	0%	0%	0%
Members Committee	1 to 2	N.A. (Note 3)	0%	50%	0%	0%
Finance Sub-committee	2 to 4	75%	33%	0%	0%	0%
Strategy Sub-committee	2 to 4	75%	33%	0%	0%	0%
Member E						
Organisational Development Committee	1 to 3	33%	67%	0%	0%	0%
Finance Sub-committee	2 to 4	100%	67%	75%	33%	50%
Strategy Sub-committee	2 to 4	75%	67%	50%	33%	50%
Member F						
Competitions Committee	1 to 4	N.A. (Note 2)		33%	0%	0%
Member G						
Competitions Committee	1 to 4	N.A. (Note 2)		25%	0%	50%
Member H						
Strategy Sub-committee	2 to 4	75%	33%	25%	0%	50%

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Table 23 (Cont'd)

	No. of meetings held in a year	Attendance rate for football season				
		2014/15	2015/16	2016/17	2017/18	2018/19
Member I						
Strategy Sub-committee	2 to 4	50%	33%	25%	33%	0%
Member J						
Members Committee	1 to 2	N.A. (Note 3)	100%	0%	50%	0%
Member K						
Members Committee	1 to 2	N.A. (Note 3)	100%	50%	50%	0%

Source: HKFA records

Note 1: Member B was no longer a member in the football seasons 2015/16 to 2018/19.

Note 2: The Competitions Committee was set up in the football season 2016/17.

Note 3: The Members Committee was set up in the football season 2015/16.

4.9 HKFA records did not indicate that HKFA had taken actions to encourage members to attend meetings. As meetings are an important and interactive forum for deliberating important business, it is crucial that members can contribute to the forum through their attendance. While according to FTF, HKFA had completed the recommendations of the Project Phoenix in the area of governance matters (see para. 4.7), the fact that some members failed to attend the Board/committee/sub-committee meetings is not satisfactory. Audit considers that HAB needs to urge HKFA to make efforts to encourage members to attend meetings, especially those members who are frequently absent from meetings. Such efforts may include, for example, reminding members of the importance of attending meetings, ascertaining whether members have difficulties in attending meetings and providing assistance to them (e.g. rescheduling the meetings) where possible.

Scope for improving first-tier declarations of conflicts of interest

4.10 According to HKFA guidelines for handling conflicts of interest, HKFA adopts a two-tier system for declarations of conflicts of interest for members of its Board, committees and sub-committees:

- (a) ***First-tier declaration.*** Declaration of conflicts of interest is required when a Board/committee/sub-committee member is first appointed and annually thereafter; and
- (b) ***Second-tier declaration.*** When a member has any direct personal or pecuniary interest in any matters under consideration by the Board or relevant committee/sub-committee, he/she should make a declaration as soon as practicable after he/she has become aware of it.

To facilitate proper handling and recording of declaration of conflicts of interest, members of the Board, committees and sub-committees are required to complete the declaration forms and submit them to HKFA.

4.11 Audit examined HKFA records for members' declaration of conflicts of interest in the football seasons 2014/15 to 2018/19 and noted that:

- (a) HKFA did not send first-tier declaration forms for completion by members of the Board, committees and sub-committees; and
- (b) members of the Board, committees and sub-committees were not notified of the need to complete first-tier declaration forms at the time of appointment, nor were they reminded of the need to do so annually.

As a result, no first-tier declarations were made by members of the Board, committees and sub-committees. In March 2020, HKFA informed Audit that HKFA has started requiring the completion of first-tier declaration forms by all members of the Board, committees and sub-committees since the football season 2019/20.

4.12 Audit considers that HAB needs to urge HKFA to ensure that it sends relevant declaration forms to members of the Board, committees and sub-committees for their completion at the time of appointment and thereafter annually. Furthermore,

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it needs to urge HKFA to ensure that the forms are duly completed and returned to HKFA.

Need to enhance the governance of the Audit Committee

4.13 Audit examined the governance of the Audit Committee in the football seasons 2014/15 to 2018/19 and noted that the requirements stipulated in the Audit Committee's terms of reference, which was endorsed by the Board in February 2014, had not been met (see Table 24).

Table 24

Non-compliance with terms of reference of the Audit Committee

Area	Requirements stipulated in terms of reference of the Audit Committee	Non-compliance
Frequency of meetings	At least 4 times a year	There was no meeting held after 13 February 2015 (i.e. for a period of 4.5 years up to 30 June 2019)
Quorum of meetings	2	The Committee consisted of one member (the Chairman) only from July 2015 onwards
Number of committee members	3 to 5	
Requirements to maintain independence	In order to maintain independence, the Chairman of the Audit Committee shall neither be the Chairman of the Board, nor the Chairman/member of other committees/sub-committees	In the period July 2017 to June 2019, the Chairman of the Audit Committee was also the Chairman of the Organisational Development Committee and a member of the Members Committee

Source: Audit analysis of HKFA records

4.14 In view of the aforementioned non-compliances, it was doubtful whether the functions of the Audit Committee had been carried out properly and independently. For example, the fact that the Committee consisted of only one member from July 2015 onwards is not conducive to effective deliberation of business issues and collective decision making.

4.15 In addition to overseeing financial reporting and related internal controls, risk, and ethics and compliance, an audit committee is responsible for overseeing the external auditor (Note 23). Given the importance of the role of the Committee, Audit considers that HAB needs to urge HKFA to take measures to ensure that the Audit Committee complies with the requirements stipulated in the terms of reference.

Need to enhance the governance of the Marketing and Communications Committee

4.16 The Marketing and Communications Committee is responsible for the planning of HKFA's promotional, public relations and communications activities. It liaises with and maintains relationships with external stakeholders such as government departments, bodies providing subventions and sponsorships, commercial sponsors, and media organisations.

4.17 In a March 2010 paper submitted in the meeting of the LegCo Panel on Home Affairs (which discussed about the proposal for providing ASDF funding for what was later known as the Project Phoenix), it was stated that HAB would expect that HKFA should in time be able to derive income from gate receipts, sponsorship and other sources (e.g. advertising income and television broadcasting income) that would help it achieve steady improvements financially and in management. Marketing and communications activities of HKFA, among other things, play an important role in the development of HKFA. In fact, in a Board meeting in August 2015, it was commented that the Marketing and Communications Committee should aim to find sponsorship for HKFA.

4.18 Audit examined the governance of the Marketing and Communications Committee in the football seasons 2014/15 to 2018/19 and found that HKFA could not provide, for Audit's examination, most of the agendas and minutes of meetings of the Committee for the period July 2014 to March 2019. It only provided to Audit the agendas and minutes for the three meetings of the Committee held in April, May and June 2019. Upon Audit's enquiry in February 2020, HKFA also provided the agenda of a meeting of the Committee held in 2017. In March 2020, HKFA further informed Audit that in the football seasons 2014/15 to 2018/19, there were meetings held but

Note 23: *HKFA had also engaged an audit firm to conduct internal audit functions and prepare internal audit reports.*

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the minutes, other than those for the meetings held in April, May and June 2019, could not be located. It was therefore uncertain how effectively the Committee had discharged its functions (see para. 4.16) (see also paras. 4.40 to 4.42 for audit observations relating to self-generation of incomes such as sponsorship). To enhance transparency and accountability, HAB needs to urge HKFA to ensure that agendas and minutes of meetings of the Committee are duly kept.

Audit recommendations

4.19 **Audit has *recommended* that the Secretary for Home Affairs should urge HKFA to take effective measures to improve its governance, including:**

- (a) **encouraging members of the Board, committees and sub-committees to attend meetings, especially those members who are frequently absent from the meetings;**
- (b) **ensuring that first-tier declaration of conflicts of interest forms are sent to members of the HKFA Board, committees and sub-committees for their completion at the time of appointment and thereafter annually, and that the forms are duly completed and returned to HKFA;**
- (c) **ensuring that the Audit Committee complies with the requirements stipulated in the terms of reference of the Committee; and**
- (d) **ensuring that agendas and minutes of meetings of the Marketing and Communications Committee are duly kept.**

Response from the Government

4.20 The Secretary for Home Affairs accepts the audit recommendations. He has said that HAB:

- (a) will urge the HKFA Board to take effective measures to address the governance issues identified by Audit in such areas as attendance at meetings by members of the Board, committees and sub-committees, actual implementation of the two-tier reporting system for the declaration of interests, compliance of its committees with their terms of reference, and

proper keeping of agendas and minutes of meetings of its committees. HAB will require HKFA to submit an action plan for consideration by FTF on how it intends to address the issues identified by Audit in this Audit Report, and submit progress reports on the action plan's implementation at six-months' intervals;

- (b) has encouraged HKFA to make improvements in its corporate governance as part of its commitment under the Project Phoenix and then FYSP, which included the introduction of independent members on its Board of Directors and expansion of its membership. HAB will take into account the audit recommendations and HKFA's action plan when considering its application for funding to implement its new strategic plan; and
- (c) will provide SF&OC with a time-limited allocation of \$5 million per year for five years starting 2020-21 for setting up a dedicated team to examine the existing governance structure and operation of all NSAs, including HKFA, formulate a code of governance and monitor NSAs' compliance with the code, with a view to enhancing their corporate governance and transparency.

Human resource management

4.21 The Project Phoenix included the recruitment of key personnel to work with existing employees and other stakeholders to deliver changes and improvements (see para. 4.3(b)). According to the Project Phoenix, HKFA needed to be considerably strengthened in terms of both the absolute number of staff and their requisite skills. As at 31 March 2019, the total headcount of 103 of HKFA included 44 (43%) new posts created under the Project Phoenix and FYSP.

4.22 While HKFA was recruiting staff for the Project Phoenix and FYSP, staff turnover had been a matter of concern of HKFA. For example, according to a paper that reported the progress of the Project Phoenix submitted by HKFA to SC in January 2013, with the departure of the then Chief Executive Officer (CEO) and the then Head Coach in 2012, the implementation of the Project Phoenix had suffered two high-profile setbacks.

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4.23 Audit examined HKFA's recruitment of staff under the Project Phoenix and FYSP as well as HKFA's staff turnovers. Audit found that there is scope for improvement in a number of areas as shown in paragraphs 4.24 to 4.32.

Need to enhance recruitment policies and procedures

4.24 Audit examined 10 HKFA recruitment exercises conducted in the period 2014-15 to 2018-19 (Note 24) and found the following issues:

- (a) ***Successful applications received after deadlines.*** In 6 exercises (involving 412 applications) conducted in 2015, 2016 and 2018, 11 applications were rejected by Human Resources Department (HRD) as the applications had been received by HKFA after the application deadlines. However, for another two applications (one in 2016 and the other in 2018) that had also been received by HKFA after the application deadlines, they were accepted under the discretionary power of the Hiring Manager. There was no documentation indicating the reason for exercising the discretionary power in these two cases. These two applications were successful and the applicants had taken up the appointments; and
- (b) ***Successful applications not sent to the designated recipient.*** In 3 exercises (involving 239 applicants) conducted in 2013 and 2018, 15 applicants had sent their applications to HKFA's staff (e.g. the Head Coach and CEO) instead of to the HRD as indicated in the job advertisements. Of the 15 applications, 7 applications were rejected by HRD as they had not been sent to HKFA through the proper channel (i.e. HRD). However, for the remaining 8 applicants, their applications were accepted by HRD. Of these 8 applicants, interviews had been conducted for 4 applicants. Of these 4 applicants, 2 were offered and had taken up appointments (see Case 4 for one of these two applications).

Note 24: *The staff recruited comprised management grade staff and supporting staff of different departments of HKFA.*

Case 4

**Recruitment of a Head Coach
Chronology of events
(2018)**

Date	Event
23 June 2018	This was the deadline of the application for the Head Coach post as stated in the job advertisements posted on HKFA website and recruitment websites.
3 July 2018	The CEO of HKFA submitted, via e-mail, the application of an applicant, Applicant A, to the HRD. The CEO remarked in the e-mail that the application was received by him before the application deadline. There was no documentation indicating the date of receipt of the application by the CEO.
17 July 2018	<ul style="list-style-type: none"> • HKFA had received a total of 115 applications. Of the 115 applications: <ul style="list-style-type: none"> – 5 were rejected as they had been received by HKFA after the application deadline; – 2 were rejected as they had not been sent through the proper channel; and – 2 were rejected on the grounds of duplicated application. • 9 out of 106 (115 minus 5 minus 2 minus 2) applicants were shortlisted for interviews. • The Chairman of HKFA had set up a recruitment panel consisting of two persons, i.e. the CEO as the chairman of the panel and a Technical Advisor. Both the CEO and the Technical Advisor signed declaration forms for conflicts of interest on 17 July 2018, stating that they did not personally know any of the 9 shortlisted applicants.
17 to 19 July 2018	Each of the 9 shortlisted applicants attended a video interview conducted by the CEO and the Technical Advisor. According to HKFA records, the Chairman of HKFA stated that he witnessed the process of each interview. Video records of the interviews were sent to a Board member for review. The interview assessment forms of all the 9 applicants were signed by the CEO between 17 and 19 July 2018.
2 August 2018	The Board approved the recruitment panel's recommendation for offering the Head Coach post to Applicant A.

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Case 4 (Cont'd)

Date	Event
8 August 2018	HKFA signed an employment contract with Applicant A for the period 10 September 2018 to 31 March 2020.
16 August 2018	The interview assessment forms of the 9 applicants were signed by the Technical Advisor.
10 September 2018	Applicant A reported for duty. He subsequently resigned on 16 December 2018 (i.e. after having been employed for less than 3.5 months).

Source: HKFA records

4.25 According to HAB, it received a complaint related to the recruitment exercise for the Head Coach in 2018 (i.e. Case 4 above). After a thorough examination of the relevant submission provided by HKFA, FTF (see Note 4 to para. 1.7(c)) issued a letter to HKFA in September 2018 expressing its concern over the recruitment exercise and suggested that HAB's concerns and observations be brought to the attention of the HKFA Board. In response, HKFA conducted a review of its Staff Recruitment Policy and Procedures with the assistance of an external audit firm from October to November 2018. The Staff Recruitment Policy and Procedures were revised and endorsed by the HKFA Board in February 2019. An external audit firm was then engaged to check on the implementation of the revised Staff Recruitment Policy and Procedures, which confirmed that the Staff Recruitment Policy and Procedures had been fully adopted and followed in subsequent recruitment exercises.

4.26 While noting HKFA's efforts (see para. 4.25), Audit examined the revised Staff Recruitment Policy and Procedures and noted that it did not specifically address the inadequacies mentioned in paragraph 4.24. To ensure that recruitment exercises are conducted in a transparent, accountable and impartial manner, Audit considers that HKFA needs to lay down policies and procedures for handling applications received after the application deadlines and for dealing with applications not submitted through the proper channel. HKFA also needs to take measures to ensure that the laid-down policies and procedures are consistently applied. In circumstances where there are compelling reasons for deviating from the laid-down policies and procedures, HKFA needs to document the reasons for the deviations. Moreover, as a matter of propriety, interview assessment forms need to be duly signed by all

members of a recruitment panel prior to seeking the Board's approval for the job offering.

Need to improve declarations of conflicts of interest in recruitment exercises

4.27 According to HKFA's recruitment procedures, if an applicant selected for a scheduled interview is a close friend or relative of a member of the recruitment panel, the member is required to declare, on a declaration form, the conflicts of interest. It is also HKFA's practice to make an alternative interview arrangement (e.g. change of interviewers) for the applicant.

4.28 In examining the 10 recruitment exercises (see para. 4.24), Audit found that:

- (a) in 6 exercises conducted in 2015, 2016 and 2018, for 7 applicants selected for scheduled interviews, while according to the declarations made by the members of the recruitment panels that the applicants were not their close friends or relatives (see para. 4.27), the members had made other declarations, and alternative interview arrangements had been made for 2 of the 7 applicants (see Table 25). There was no documentation indicating why no alternative interview arrangements had been made for the other 5 applicants.

Table 25

**Declarations of recruitment panel members in recruitment exercises
and alternative interview arrangements
(2015 to 2018)**

Applicant	Declaration made by member	Alternative interview arrangement
1	Applicant was a friend	No
2	Applicant was a “working partner”	No
3		No
4	Applicant and member were members of a committee	No
5	Applicant was an existing staff of HKFA	No
6		Yes
7		Yes

Source: HKFA records

For the 2 applicants with alternative interview arrangements (see para. 4.27) made, Audit further noted that:

- (i) with respect to one applicant, both the two interviewers declared that they personally knew the applicant;
 - (ii) with respect to the other applicant, one of the three interviewers declared that he personally knew the applicant; and
 - (iii) notwithstanding the potential conflicts of interest (see (i) and (ii) above), interviews proceeded for these 2 applicants. There were no records indicating how the potential conflicts had been resolved;
- (b) in an exercise conducted in 2018 (see Case 4 in para. 4.24(b)), one of the two interviewers (i.e. the CEO mentioned in the Case) signed a declaration form that he did not personally know any of the shortlisted applicants. Audit, however, noted that the interviewer had stated in other HKFA records that he personally knew the applicant and had met the applicant a few times before; and

- (c) in 3 exercises conducted in 2016 and 2018, 8 recruitment panel members declared conflicts of interest with the interviewees. However, the dates of declaration forms signed by 5 members were later than the dates of interviews.

4.29 For HKFA's recruitment to be conducted in a fair and proper manner, HAB needs to urge HKFA to specify, in addition to close friends or relatives, what other connections with applicants are required to be declared by members of recruitment panels; to stipulate clearly the circumstances under which alternative interview arrangements should be made; and to lay down the arrangements for resolving potential conflicts of interest in alternative interview arrangements. HKFA also needs to take measures to ensure that conflicts of interest in recruitment exercises are properly and adequately declared, and that the declaration forms are completed and signed by members of recruitment panels prior to the conduct of interviews.

Need to address high staff turnovers

4.30 To examine HKFA's staff turnovers (see para. 4.22), Audit conducted an analysis of the turnovers in the period 2014-15 to 2018-19. Audit found that:

- (a) staff turnover rates of ASDF-funded posts were on the high side (i.e. at 30% or more) in 3 (i.e. 2015-16, 2017-18 and 2018-19) out of the 5 years' period (Note 25) (see Table 26); and

Note 25: *According to HAB, in 2018-19, ASDF funded 44 posts of the total 103 posts of HKFA. While the staff turnover rate of HKFA in 2018-19 was 30%, it was not far from the staff turnover rate of 26% of small companies in 2018 (published by the Hong Kong Institute of Human Resource Management).*

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Table 26

**Staff turnover rates of ASDF-funded posts
(2014-15 to 2018-19)**

	2014-15	2015-16	2016-17	2017-18	2018-19
Average number of staff of HKFA (Note) (a)	22	22	24	25	30
Number of staff left HKFA (b)	2	8	2	8	9
Staff turnover rate (c) = (b) ÷ (a) × 100%	9%	36%	8%	32%	30%

Source: Audit analysis of HKFA records

Note: Average number of staff

$$= \frac{\text{Total number of staff at the start of a year} + \text{total number of staff at the end of a year}}{2}$$

- (b) for some departments of HKFA, the staff turnover rates were particularly high in some years (i.e. more than 60% — see Table 27).

Table 27

**Staff turnover rates of some HKFA departments
(2014-15 to 2018-19)**

HKFA department	Staff turnover rate				
	2014-15	2015-16	2016-17	2017-18	2018-19
Chief Executive Office	0%	0%	0%	0%	133%
Marketing and Communications Department	33%	86%	22%	111%	44%
Referees Department	0%	0%	0%	0%	100%

Source: Audit analysis of HKFA records

4.31 It is HKFA's practice to conduct exit interviews for leaving staff. A leaving staff is invited to complete an exit survey by scoring (1 (poor) to 5 (excellent)) various aspects of employment at HKFA. In the period 2014-15 to 2018-19, 17 of the 29 (see Table 26 in para. 4.30) leaving staff completed exit surveys. Audit analysed the results of exit surveys of the 17 staff, focusing on aspects with low scores (i.e. 1 or 2). Audit noted that of the 17 staff, 6 staff (35%) left for the reason of career development opportunities and 5 staff (29%) left for workload involved (see Table 28).

Table 28

**Results of exit surveys of 17 leaving staff
(2014-15 to 2018-19)**

Area (Note)	No. of leaving staff
Career development opportunities	6
Workload involved	5
Lack of internal communications in HKFA	3
Morale	3
Work hours	3
Fringe benefits	2
Work location	2
Physical working conditions	1
Salary	1

Source: Audit analysis of HKFA records

Note: Leaving staff could select multiple aspects as the reasons for leaving HKFA.

4.32 High staff turnovers are not conducive to operational efficiency and may even affect the normal operations of the departments. HKFA needs to closely monitor the staff turnover rates (especially for those departments with particularly high turnover rates), and make efforts to address the high turnover rates taking into account the reasons for staff leaving HKFA.

Audit recommendations

4.33 **Audit has *recommended* that the Secretary for Home Affairs should urge HKFA to take effective measures to improve its human resource management, including:**

- (a) laying down policies and procedures for handling job applications received after the application deadlines and for dealing with applications not submitted through the proper channel as required;**
- (b) ensuring that the laid-down policies and procedures are consistently applied;**
- (c) in circumstances where there are compelling reasons for deviating from the laid-down policies and procedures, documenting the reasons for the deviations;**
- (d) ensuring that interview assessment forms are duly signed by all members of a recruitment panel prior to seeking the Board's approval for the job offering;**
- (e) specifying, in addition to close friends or relatives, what other connections with applicants are required to be declared by members of recruitment panels in recruitment exercises;**
- (f) stipulating clearly the circumstances under which alternative interview arrangements should be made;**
- (g) laying down the arrangements for resolving potential conflicts of interest in alternative interview arrangements;**
- (h) ensuring that conflicts of interest in recruitment exercises are properly and adequately declared;**
- (i) ensuring that declaration forms are completed and signed by members of recruitment panels prior to the conduct of interviews; and**

- (j) **closely monitoring the staff turnover rates (especially for those HKFA departments with particularly high turnover rates), and making efforts to address the high turnover rates taking into account the reasons for staff leaving HKFA.**

Response from the Government

4.34 The Secretary for Home Affairs accepts the audit recommendations. He has said that HAB will:

- (a) urge the HKFA Board to take effective measures in improving HKFA's human resources management and ensure that recruitment is conducted in a fair and transparent manner in full compliance with the relevant policies and procedures of HKFA; and
- (b) require HKFA to submit an action plan for consideration by FTF on how it intends to address the issues identified by Audit in this Audit Report, and submit progress reports on the implementation of the action plan at six-months' intervals.

Attendance of spectators and self-generated incomes

4.35 As mentioned earlier (see (c) in Figure 2 in para. 4.2), poor playing and management standards had led to a drop in the number of spectators, which in turn led to less revenue from gate receipts and sponsorship. While ASDF funding had been provided to HKFA, HAB expected that HKFA should in time be able to derive income from gate receipts, sponsorship and other sources that would help it achieve steady improvements financially and in management (see para. 4.17).

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Need to boost attendances

4.36 ***Decrease in attendances.*** Audit analysed the number of spectators of the matches organised by HKFA (i.e. Hong Kong Premier League (HKPL) matches (Note 26), Football Association Cup matches, Senior Shield matches, Sapling Cup matches, Exhibition matches, AFC Asian Cup matches and World Cup Qualification matches) in the period 2015-16 (i.e. after the completion of the Project Phoenix) to 2018-19. Audit found that the average number of spectators had decreased by 3.6% from 1,403 in 2015-16 to 1,352 in 2018-19. In particular, the number had decreased significantly by 36.3% from 2,122 in 2017-18 to 1,352 in 2018-19 (see Table 29).

Table 29

**Spectators attended matches organised by HKFA
(2015-16 to 2018-19)**

	2015-16	2016-17	2017-18	2018-19
Total number of spectators (a)	217,399	220,966	328,976	198,722
Total number of matches organised by HKFA (b)	155	159	155	147
Average number of spectators (c) = (a) ÷ (b)	1,403	1,390	2,122 (Note)	1,352

Source: Audit analysis of HKFA records

Note: The increase (from 1,390 in 2016-17 to 2,122 in 2017-18) was mainly due to the holding of Premier League Asian Trophy and an exhibition match between Kitchee and Tottenham Hotspur in Hong Kong (of which some 106,000 spectators were attracted in three match days). According to HAB, the gate receipts of the exhibition match between Kitchee and Tottenham Hotspur in May 2017 and the Premier League Asia Trophy in July 2017 did not form part of HKFA's income under Table 31 in paragraph 4.40.

Note 26: According to FTF (see Note 4 to para. 1.7(c)), HKPL is expected to be a “flagship” product of local football to arouse public interest in football and become the potential source of attracting sponsorship.

4.37 ***Increasing proportion of complimentary tickets.*** According to FTF (see Note 4 to para. 1.7(c)), distribution of complimentary tickets can help raise the public interest in football and improve the attendances of matches, thereby attaining the ultimate goal of generating more gate receipts.

4.38 Audit analysed HKFA's distribution of complimentary tickets in the period 2015-16 to 2018-19, and found that:

- (a) the proportion of spectators holding complimentary tickets to total number of spectators of HKFA matches had increased from 9% in 2015-16 to 14.6% in 2018-19 (see Table 30);

Table 30

**Spectators holding complimentary tickets
(2015-16 to 2018-19)**

	2015-16	2016-17	2017-18	2018-19
Number of spectators holding complimentary tickets (a)	19,646	32,242	38,989	29,023
Total number of spectators of HKFA matches (b)	217,399	220,966	328,976	198,722
Proportion of spectators holding complimentary tickets to total number of spectators of HKFA matches (c) = (a) ÷ (b) × 100%	9.0%	14.6%	11.9%	14.6%

Source: Audit analysis of HKFA records

- (b) in some matches, the number of spectators holding complimentary tickets was greater than those holding sold tickets. For example, in 2018-19, in 8 (5.4%) of the total 147 HKFA matches held, the number of spectators holding complimentary tickets was greater than those holding sold tickets. For another example, in a HKPL match held in March 2018, the number of spectators holding complimentary tickets was 370, while those holding sold tickets was 161; and

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- (c) the results of using complimentary tickets to improve attendances were not always satisfactory. Audit examined the distribution of complimentary tickets for two local international competitions, namely the AFC Asian Cup held in June 2017, and an exhibition match held at the Hong Kong Stadium in January 2019. Audit found that:
 - (i) of the 1,778 complimentary tickets distributed for the AFC Asian Cup, 1,158 (65%) tickets were not used; and
 - (ii) of the 1,806 complimentary tickets distributed for the exhibition match, 715 (40%) tickets were not used.

4.39 Notwithstanding the distribution of complimentary tickets to improve the attendances of matches (see para. 4.37), the number of spectators was on the decrease (see para. 4.36). Audit considers that HAB needs to urge HKFA to ascertain the reasons for the decrease in the number of spectators, taking into account the audit observations on HKFA's distribution of complimentary tickets (see para. 4.38), in order to take further measures to boost the attendances.

Need to generate more incomes

4.40 As mentioned in paragraph 4.17, HAB expected that HKFA should in time be able to derive income from gate receipts, sponsorship and other sources that would help it achieve steady improvements financially and in management. Audit analysed the incomes of HKFA in the football seasons 2014/15 to 2017/18 (see Table 31).

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Table 31

Incomes of HKFA (Football seasons 2014/15 to 2017/18)

	Football season							
	2014/15		2015/16		2016/17		2017/18	
	\$'000	%	\$'000	%	\$'000	%	\$'000	%
<i>Funding from Government and local organisations</i>								
Government funding (Note 1)	35,781	35%	33,761	40%	35,794	36%	34,120	37%
Hong Kong Jockey Club	3,996	4%	19,149	23%	20,089	21%	24,377	26%
<i>Funding from international and regional football governing bodies</i>								
Funding from organisations (e.g. FIFA, AFC, EAFF)	7,753	8%	7,167	8%	18,319	19%	9,806	10%
Sub-total	47,530	47%	60,077	71%	74,202	76%	68,303	73%
<i>Self-generated incomes</i>								
Gate receipts (Note 2)	16,806	16%	2,793	3%	3,754 (Note 3)	4%	4,601 (Note 3)	5%
Sponsorship (Note 2)	21,107	21%	7,103	8%	5,716	6%	4,465	5%
Advertising and TV broadcasting income (Note 2)	2,141	2%	2,045	2%	192	1%	311	1%
Programme and registration fee income (e.g. course fees of training programmes and registration fees of coaches)	6,561	6%	7,281	9%	7,482	7%	9,341	10%
Others (e.g. subsidies from clubs for television broadcasting and interest income)	7,805	8%	5,772	7%	6,374	6%	6,381	6%
Total	101,950	100%	85,071	100%	97,720	100%	93,402	100%

Source: HKFA audited accounts

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Table 31 (Cont'd)

- Note 1: Government funding included funding for the Project Phoenix and FYSP from ASDF, and funding from LCSD's Sports Subvention Scheme (see (b) in Table 1 in para. 1.3).*
- Note 2: According to HAB, to celebrate HKFA's centennial anniversary, HKFA hosted an exhibition game in October 2014 between Hong Kong and Argentina, who were the runners-up in the 2014 World Cup. The match contributed to a spike in gate receipts, sponsorship, advertising and television broadcasting income in the football season 2014/15.*
- Note 3: According to HAB, while HKFA co-hosted the exhibition match between Kitchee and Tottenham Hotspur in May 2017 and hosted the Premier League Asia Trophy for the English Premier League in July 2017, the gate receipts contributed by these matches did not form part of HKFA's income.*
- Remarks: As at 29 February 2020, the audited accounts for the football season 2018/19 were not yet available.*

4.41 As shown in Table 31:

- (a) HKFA heavily relied on funding from the Government and sports organisations to sustain its development. They accounted for 47% of the total incomes of HKFA in the football season 2014/15, but the percentage rose to 73% in the football season 2017/18; and
- (b) apart from programme and registration fee income, all other self-generated incomes were decreasing. For example, gate receipts decreased from \$16.8 million (16% of total incomes) in the football season 2014/15 to \$4.6 million (5% of total incomes) in the football season 2017/18, and sponsorship income decreased from \$21.1 million (21% of total incomes) in the football season 2014/15 to \$4.5 million (5% of total incomes) in the football season 2017/18.

4.42 In a meeting of FTF held in June 2016, the Chairman of FTF reminded HKFA that it should try to find new sponsorship and funding sources to support the continuation of its various programmes, as there was no guarantee that government funding support (i.e. ASDF funding) would continue upon expiry of FYSP in 2019-20. Audit considers that HAB needs to urge HKFA to ascertain the reasons for the general decrease in self-generated incomes, so as to step up measures to generate more such incomes.

Audit recommendations

4.43 Audit has *recommended* that the Secretary for Home Affairs should urge HKFA to take effective measures to boost attendance and generate income, including:

- (a) ascertaining the reasons for the decrease in the number of spectators, taking into account the audit observations on HKFA's distribution of complimentary tickets (see para. 4.38), in order to take further measures to boost the attendances; and
- (b) ascertaining the reasons for the general decrease in self-generated incomes, so as to step up measures to generate more such incomes.

Response from the Government

4.44 The Secretary for Home Affairs accepts the audit recommendations. He has said that:

- (a) in both the mid-term review conducted in mid-2017 and final review at the end of 2019 of HKFA's performance under FYSP, FTF has expressed concerns about HKFA's poor performance in boosting attendance at HKPL games and generating additional commercial revenue. FTF urged HKFA to demonstrate its utmost effort in making improvements in both areas; and
- (b) HAB will urge HKFA to ascertain the reasons for the decrease in the number of spectators and self-generated income, and require it to submit an action plan for consideration by FTF on how it intends to address the issues identified by Audit in this Audit Report.

Performance measurement and other administrative issues

Performance measurement

4.45 *Performance targets and indicators not achieved.* According to FYSP funding agreement between HAB and HKFA, HKFA is required to submit half-yearly progress reports to HAB to report the achievements against performance targets and

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indicators. Failure to achieve any of the performance targets and indicators without reasons that are acceptable to HAB shall be followed up by HKFA for imposing corresponding remedial actions. Failure of remedy is treated as a breach of the funding agreement and HAB shall be entitled to terminate the agreement forthwith.

4.46 Audit examined the progress reports submitted by HKFA in the period 2015-16 to 2018-19, and found that:

- (a) in the period, there were under-achievements against performance targets and indicators. The number of under-achievements ranged from 2 to 11 (see Table 32); and

Table 32

**Under-achievements against performance targets and indicators
(2015-16 to 2018-19)**

	Total number of targets/ indicators	Number of targets/indicators not met			
		2015-16	2016-17	2017-18	2018-19
Performance targets	28	10 (36%)	11 (39%)	10 (36%)	9 (32%)
Performance indicators	5	2 (40%)	3 (60%)	3 (60%)	3 (60%)

Source: Audit analysis of HAB records

- (b) in 2018-19, there were under-achievements in 9 performance targets and 3 performance indicators. The extent of individual under-achievements ranged from 1% to 50% (see Table 33).

Table 33

**Under-achievements against performance targets and indicators
(31 March 2019)**

Performance targets/indicators		Target for 2018-19 (a)	Achievement as at 31 March 2019 (b)	Under- achievement (c) = (a) – (b)
Performance target				
Increase the number of qualified coaches registered with HKFA				
1.	D licence coach	350	279	71 (20%)
2.	C licence coach	324	273	51 (16%)
3.	B licence coach	118	107	11 (9%)
4.	A licence coach	45	40	5 (11%)
Increase the number of referees				
5.	Women FIFA referee	2	1	1 (50%)
6.	Women FIFA Assistant Referee	2	1	1 (50%)
7.	Class 1 (Note)	45	36	9 (20%)
8.	Class 2 (Note)	55	42	13 (24%)
9.	Class 3 (Note)	100	99	1 (1%)
Performance indicator				
1.	Average attendance per HKPL match	2,000	1,006	994 (50%)
2.	Increase average daily website hits of HKFA website	560,000	496,500	63,500 (11%)
3.	Expand the membership of HKFA	100	83	17 (17%)

Source: Audit analysis of HAB records

Note: According to the Referees Regulations and Guidelines issued by HKFA, a referee would first be a Class 3 referee. He/she may be promoted to a Class 2 referee and then to a Class 1 referee after assessments.

4.47 According to an HAB paper submitted in the meeting of the LegCo Panel on Home Affairs in July 2018, FTF had conducted a mid-term review of FYSP in the second-half of 2017. In response to the review, HKFA had submitted action plans detailing the improvement measures to FTF. It was also stated in the paper that HKFA was confident that it would complete most of the work in relation to the performance targets and indicators, and achieve the targets and indicators by the end of the five-year period 2015-16 to 2019-20.

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4.48 *Key targets of the consultancy report not achieved.* As mentioned in Figure 2 in paragraph 4.2, the Project Phoenix and FYSP were implemented to take forward the recommendations of the consultancy report on football development issued in December 2009. In the meeting of the LegCo Panel on Home Affairs held in March 2010 (see para. 4.17), HAB was confident that Hong Kong would envisage a transformation of local football within the next five to 10 years, if changes were implemented in a timely and effective way.

4.49 In the consultancy report, 16 key targets for football development were set. Audit examined the achievements against four key targets, and found that since the implementation of the Project Phoenix in November 2011 (see (e) in Figure 2 in para. 4.2), up to the end of September 2019, some achievements were lower than the targets and even lower than the achievements in 2009 (see Table 34).

Table 34

**Achievements against some key targets of consultancy report
(September 2019)**

	Position in December 2009 (Note)	Key target		Position in September 2019
		Future position	To achieve in year	
“National” Team FIFA Asia ranking (men)	26	20	2012	27
		15	2015	
		Maintain top 10	2020	
“National” Team FIFA world ranking (ladies)	60	50	2012	77
		40	2015	
		Maintain top 35	2020	
“National” Team FIFA Asia ranking (ladies)	13	11	2012	15
		9	2015	
		Maintain top 8	2020	

Source: HAB records and FIFA’s website

Note: The consultancy report was issued in December 2009.

4.50 According to an HAB paper submitted to FTF in its meeting held in November 2019, a final review of FYSP had been conducted. According to FTF, HKFA had made concrete improvements in many aspects under FYSP. However, there remained areas where improvements needed to be made for the further development of football in Hong Kong. The deficiencies in performance identified included unachieved performance indicators, declining trend of the average attendance of HKPL matches and lack of significant progress in generating additional revenue. Continued funding support from the Government would be necessary to sustain the efforts made so far as well as to fund further support initiatives. In March 2020, HKFA was preparing a funding application for its next strategic plan.

4.51 Audit considers that HAB needs to scrutinise HKFA's strategic plan (see para. 4.50) to ensure that the plan adequately and effectively addresses the performance deficiencies. Furthermore, HAB needs to closely monitor HKFA's performance to determine the way forward for football development in Hong Kong.

4.52 *Need to improve the accuracy of reporting achievements against the performance targets and indicators.* Audit sample checked the accuracy of achievements against a performance target (namely “increase sponsorship and advertising gross revenue”) and against a performance indicator (namely “average attendance per HKPL match”) reported by HKFA in its half-yearly progress reports to HAB in the period 2017-18 and 2018-19.

4.53 In August 2019, in respect of the “increase sponsorship and advertising gross revenue” reported in the half-yearly progress reports, Audit requested HKFA for the related supporting documents. While HKFA failed to provide the documents for Audit's examination, it provided Audit with a breakdown of the amounts of sponsorship and advertising gross revenue. Audit found that there were discrepancies between the amounts reported in the half-yearly progress reports and the amounts provided by HKFA in August 2019 (see Table 35). HKFA could not provide any explanations for the discrepancies. Audit considers that HAB needs to require HKFA to resolve the aforementioned discrepancies.

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Table 35

**Sponsorship and advertising gross revenue
(2017-18 and 2018-19)**

	2017-18	2018-19
	(\$'000)	
Amounts reported in half-yearly progress reports	17,377	20,579
Amounts provided by HKFA in August 2019	18,538	19,483

Source: Audit analysis of HAB and HKFA records

4.54 In respect of the “average attendance per HKPL match”, Audit found that there were discrepancies between the attendances reported in the half-yearly progress reports and those published on HKFA website (see Table 36).

Table 36

Average attendance per HKPL match

	April 2017 to September 2017	October 2017 to March 2018	April 2018 to September 2018	October 2018 to March 2019
	(No.)			
Reported in half-yearly progress reports	1,213	1,012	1,087	1,006
Published on HKFA website (Note)	1,138	941	996	938

Source: Audit analysis of HAB records and HKFA's website

Note: HKFA website showed a breakdown of all matches (including HKPL) held in Hong Kong with gate receipts income. The figures shown are the average attendance per HKPL match.

4.55 In March 2020, HAB informed Audit that the figures shown in the half-yearly progress reports included other matches in addition to HKPL match (e.g. Senior Shield and Football Association Cup).

4.56 HKFA was required to report “average attendance per HKPL match”, but the average attendance of various other matches was included in the reporting to HAB. Audit considers that HAB needs to redetermine the types of matches to be included in the reporting of average attendance to HAB in future and ensure that (e.g. by making enquiries with HKFA if necessary) the average attendance is properly reported.

Other administrative issues

4.57 ***Need to observe procurement requirements.*** For procurement of goods and services, HKFA needs to observe the requirements stipulated in its Procurement Policies and Guidelines (hereinafter referred to as the Guidelines) issued in June 2014 and revised in October 2018. Tables 37 and 38 show the procurement requirements laid down in the Guidelines in June 2014 (applicable for the period June 2014 to September 2018) and October 2018 (applicable from October 2018 onwards) respectively.

Table 37

**Procurement requirements
(June 2014 to September 2018)**

Value of purchase of goods and services	Procurement method	Authority for approving accepted quotation
> \$10,000 to \$20,000	Not less than 2 verbal quotations	Nil
> \$20,000 to \$2 million	3 written quotations	
> \$2 million	Open tendering	An assessment panel of not fewer than 2 members

Source: HKFA records

Remarks: Prior to June 2014, there were no laid-down procurement requirements.

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Table 38

**Procurement requirements
(From October 2018 onwards)**

Value of purchase	Procurement method	Authority for approving accepted quotation
Goods and services of value > \$5,000 to \$20,000	Not less than 2 verbal quotations	Department Head
Goods and services of value > \$20,000 to \$50,000	At least 2 written quotations	Department Head and Head of Corporate Governance
Goods of value > \$50,000 to \$200,000 and services of value > \$50,000 to \$500,000	At least 5 written quotations	Department Head and CEO
Goods of value > \$200,000 and services of value > \$500,000	Open tendering	Directors of the Board
Goods of value > \$200,000 and services of value > \$500,000 in which only a limited number of suppliers are available (e.g. supplies being sole agents or patented distributors)	Restricted or single tendering (i.e. only one or several suppliers will be invited to submit written tenders)	Directors of the Board

Source: HKFA records

4.58 Audit examined 50 items of goods and services procured (with amounts ranging from \$440 to \$1 million) in the period June 2014 (when the Guidelines were first issued — see para. 4.57) to September 2019 under the Project Phoenix and FYSP. Audit found that for 10 items (20%), HKFA did not obtain any quotations. Furthermore, there was no documentation on the justifications for not obtaining any quotations. Table 39 shows the details of the procurements of the 10 items.

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Table 39

**Procurement of 10 items without obtaining quotations
(June 2014 to September 2019)**

Item	Procurement of	No. of quotations required	No. of quotations obtained	No. of items procured	Amount (\$)
Guidelines issued in June 2014 (covering procurement in the period June 2014 to September 2018)					
For goods and services of value > \$20,000 to \$2 million					
(a)	Employee compensation insurance of clubs, and medical and personal accident insurance of football team players	3 written quotations	0	5	952,983
(b)	Webpage production services and licence fee for a video analysis software for coaches, analysts and players to improve their performance		0	2	97,930
(c)	IT services (e.g. managing HKFA website, providing database maintenance and server upgrading)		0	1	66,560
(d)	Promotion and marketing services		0	1	30,000
Guidelines issued in October 2018 (covering procurement from October 2018 onwards)					
For goods of value > \$50,000 to \$200,000 and services of value > \$50,000 to \$500,000					
(e)	Football fraud detection and monitoring services	At least 5 written quotations	0	1	89,200
Total				10	1,236,673

Source: Audit analysis of HKFA records

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4.59 In March 2020, HAB informed Audit that:

- (a) for the medical and personal accident insurance coverage (see (a) in Table 39 in para. 4.58), an insurance broker was appointed to conduct the quotation process for HKFA. For 2016-17, 16 insurers were contacted. Eventually, only two quotations were received. In fact, due to the high risk of football playing and restriction of insurance industry practice, it would not be practicable for HKFA to do the quotation process by itself. Overall speaking, the insurance broker did help HKFA request quotations from more than 5 insurers in every year;
- (b) the IT services involved the licence fee for video analysis software for coaches (see (c) in Table 39 in para. 4.58). The licence fee was paid for using the existing software system; and
- (c) for the football fraud detection and monitoring services (see (e) in Table 39 in para. 4.58), the services were provided by the sole service provider to AFC for betting monitoring coverage of all matches organised by AFC, and all matches in the top two leagues and national cup competition of AFC's Member Associations.

Audit understands that, in some circumstances, there might be difficulties in obtaining quotations from suppliers (e.g. for reason of sole suppliers). However, to ensure that best value for money is achieved, HKFA needs to obtain the required quotations as far as possible. In circumstances where the quotations could not be obtained, in order to enhance transparency and accountability, HKFA needs to document the justifications for not obtaining the quotations.

4.60 Audit considers that HAB needs to urge HKFA to take effective measures to ensure that the requirements on obtaining quotations as laid down in the Guidelines are duly observed. In circumstances where the requirements could not be observed, HKFA needs to document the justifications for the non-compliance to strengthen the control.

4.61 *Need for HAB to release grant payments in a timely manner.* According to the funding agreement for FYSP signed between HAB and HKFA, HKFA receives ASDF funding for FYSP on an annual basis. HKFA should make application for the annual grant (covering the period from 1 April to 31 March in the ensuing year) before

1 December in each year (Note 27). An annual grant endorsed by FTF and approved by HAB shall be allocated to HKFA by four equal quarterly instalments payable in advance at the beginning of each quarter of the annual grant period.

4.62 Audit found that, in recent years, there were late disbursements (up to 163 days late) of the instalment of the annual grants (see Table 40).

Note 27: *The application should include, for example, the annual budget, a plan for using venues managed by LCSD, performance targets and relevant supporting documents.*

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Table 40
Disbursement of annual grant to HKFA
(2015-16 to 2019-20)

Year	Date				Delay in disbursement (c) = (b) – (a) (days)
	Submission of annual grant application by HKFA	Endorsement by FTF	Disbursement stipulated in the funding agreement (Note) (a)	Actual disbursement (b)	
2015-16	Not required (beginning of FYSP)	28.8.2014	1.4.2015	8.5.2015	37
			1.7.2015	13.7.2015	12
			1.10.2015	9.11.2015	39
			1.1.2016	14.1.2016	13
2016-17	1.12.2015	29.6.2016	1.4.2016	7.9.2016	159
			1.7.2016	7.9.2016	68
			1.10.2016	3.10.2016	2
			1.1.2017	16.1.2017	15
2017-18	29.11.2016	24.3.2017	1.4.2017	10.5.2017	39
			1.7.2017	24.7.2017	23
			1.10.2017	14.11.2017	44
			1.1.2018	21.2.2018	51
2018-19	1.12.2017	23.5.2018	1.4.2018	11.9.2018	163
			1.7.2018	11.9.2018	72
			1.10.2018	18.10.2018	17
			1.1.2019	9.1.2019	8
2019-20	3.12.2018	26.6.2019	1.4.2019	24.7.2019	114
			1.7.2019	24.7.2019	23
			1.10.2019	18.12.2019	78
			1.1.2020	20.1.2020	19

Source: Audit analysis of HAB records

Note: According to the terms of the agreement, each annual grant will be allocated to the grantee by four equal quarterly instalments payable in advance at the beginning of each quarter of each annual grant period.

4.63 According to HKFA, late and irregular intervals of receiving disbursements of annual grants from HAB had sometimes affected the cashflow of HKFA which in turn affected the operation of HKFA, and the planning and implementation of programmes under FYSP. In addition, Audit noted that FTF, which endorsed HKFA's annual grant applications, only held 1 to 2 meetings a year. In 2016-17, 2018-19 and 2019-20, the FTF meetings to endorse the annual grant applications were held after the beginning (i.e. 1 April) of the grant periods.

4.64 Audit considers that HAB needs to look into the concern of HKFA on late disbursements of instalments of annual grants, and make efforts to release any future grant payments to HKFA in a timely manner.

Audit recommendations

4.65 Audit has *recommended* that the Secretary for Home Affairs should:

- (a) scrutinise HKFA's strategic plan (see para. 4.50) to ensure that the plan adequately and effectively addresses the performance deficiencies, and closely monitor HKFA's performance to determine the way forward for football development in Hong Kong;
- (b) require HKFA to resolve the discrepancies in the reporting of sponsorship and advertising gross revenue;
- (c) redetermine the types of matches to be included in the reporting of average attendance per HKPL match, and ensure that the achievement is properly reported by HKFA;
- (d) urge HKFA to take effective measures to ensure that the requirements on obtaining quotations as laid down in the Procurement Policies and Guidelines are duly observed, and in circumstances where the requirements could not be observed, the justifications for the non-compliance is documented to strengthen the control; and
- (e) look into the concern of HKFA on late disbursements of instalments of annual grants, and make efforts to release any future grant payments to HKFA in a timely manner.

Response from the Government

4.66 The Secretary for Home Affairs agrees with the audit recommendations. He has said that HAB will:

- (a) urge the HKFA Board to take effective measures to ensure that HKFA's procurement activities are conducted in full compliance with the relevant policies and guidelines of HKFA;
- (b) require HKFA to submit an action plan on how it intends to address the issues identified by Audit in this Audit Report; and
- (c) review the process for releasing funds to HKFA and make improvements as appropriate to ensure that future disbursements will be made in a timely manner.

PART 5: FUNDING FOR OTHER SPORTS PROGRAMMES AND SCHEMES

5.1 This PART examines funding for other sports programmes and schemes, focusing on:

- (a) the Five-Year Development Programme for Team Sports (paras. 5.2 to 5.14);
- (b) District Football Funding Scheme (paras. 5.15 to 5.29); and
- (c) HKPC&SAPD programmes (paras. 5.30 to 5.38).

The Five-Year Development Programme for Team Sports

5.2 According to ESC (see para. 1.14(b)), team sports (e.g. basketball and volleyball) were among the most popular sports among students and young people, enabling them to establish team spirit, instil confidence and develop a healthy lifestyle. Despite their popularity, team sports lagged behind individual sports (e.g. table-tennis and badminton) in terms of achievements in regional and international competitions. This was partly due to the fact that given the large size of squads of team sports, more resources were required for organisation of regular training and participation in international competitions. In August 2017, ESC discussed the proposal to introduce a five-year enhancement programme under which resources from ASDF would be provided to eight team sports with a team size of five or more (i.e. (a) baseball; (b) basketball; (c) handball; (d) hockey; (e) ice hockey; (f) softball; (g) volleyball; and (h) water polo) competing in the next Asian Games and Asian Winter Games.

5.3 In September 2017, SC endorsed the introduction of a Five-Year Development Programme for Team Sports (the 5-year programme) covering the period 1 January 2018 to 31 December 2022 with a committed funding of \$105 million from ASDF. The programme provides funding to the aforesaid eight team sports competing in the 2018 and 2022 Asian Games, and the 2021 Asian Winter Games. The programme aims at enhancing the performance of the team sports progressively and increasing their chances of attaining elite sports status (see Appendix B) in the future. In an ESC paper of December 2018, it was further stated that the ultimate

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goal of the 5-year programme was to improve the performance of the team sports in the 2022 Asian Games.

5.4 According to HAB, with the introduction of the 5-year programme, NSAs now maintain regular training of their Hong Kong squads and devise annual plans for sports exchanges and competitions outside Hong Kong to improve the performance of the teams. They closely monitored their competitors in the 2018 Asian Games and identified their weaknesses in, for example, physical fitness of players and sports science adopted in training. Some NSAs even take a step forward to plan the development of specific positions in the team. For players, they are now committed to regular training partly because of the monthly grant, but more importantly, the improving development of the team sports under the support of the 5-year programme. These players now actively exchange with their coaches, fitness trainers and sports professionals to improve their performance.

5.5 For the Asian Games, the 5-year programme covers four development stages:

- (a) pre-2018 and the 2018 Asian Games from 2017 to 2019 (including review of results of the 2018 Asian Games in 2019);
- (b) post-2018 Asian Games in 2019-20;
- (c) pre-2022 Asian Games from 2020 to 2022; and
- (d) the 2022 Asian Games.

5.6 Under the funding arrangement of the 5-year programme, NSAs of the eight team sports (hereinafter referred to as the relevant NSAs) may submit applications for ASDF funding to HKSI. HKSI vets the relevant NSAs' applications and finalises the amounts of funding for approval by HAB. ASDF funding covers:

- (a) ***Expenditure for training programmes.*** Training programmes are arranged by the relevant NSAs for their teams. The amount of funding for a team varies with the team size. The basic annual funding for a team is \$200,000, \$350,000 and \$500,000 with a squad size of below 10, 11 to 20 and over

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20 respectively. Enhanced funding support will be provided to a team which meets certain performance targets (Note 28); and

- (b) ***Athlete allowances.*** An athlete nominated by a relevant NSA receives a standard monthly allowance of \$4,000, subject to fulfilling an attendance rate of at least 80% of the scheduled training provided by the relevant NSA.

In 2017-18 and 2018-19, under the 5-year programme, ASDF provided funding of \$3.5 million and \$13 million respectively to the relevant NSAs.

5.7 To monitor the performance of the relevant NSAs, the NSAs are required to submit to HAB via HKSI:

- (a) half-yearly reports (reporting matters such as the local and overseas training programmes and competitions, and evaluation of athletes' performance) in January and July each year;
- (b) a list of unaudited incomes and expenditures prepared by the NSAs (covering the period January to December) in February each year; and
- (c) audited accounts in June each year.

5.8 A Coordinating Committee for the Five-Year Development Programme for Team Sports (the Coordinating Committee) was established in December 2017 to advise HAB on matters relating to the 5-year programme, including, inter alia:

- (a) to consider, monitor and evaluate the implementation of training plans by the relevant NSAs with reference to the agreed key performance indicators and targets;
- (b) to monitor and evaluate the performances of teams in major competitions;

Note 28: *For the Asian Games, performance targets are set for each of the four development stages (see para. 5.5) (see also para. 5.11 for the targets set for the first development stage). A team that has achieved one stage of targets will be provided with a 20% increase in annual funding as an incentive.*

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- (c) to monitor and advise on the allocation of funds earmarked for the relevant NSAs to implement the 5-year programme;
- (d) to exchange views with relevant stakeholders and NSAs on the further development of team sports; and
- (e) to advise on any other strategic matters relating to the 5-year programme.

5.9 The Coordinating Committee is chaired by HAB Commissioner for Sports and comprises representatives of LCSD, HKSI, SF&OC and the relevant NSAs. In the first meeting of the Coordinating Committee in December 2017, it was decided that the Committee would hold two meetings annually.

Need to closely monitor the implementation of the 5-year programme

5.10 According to HAB, there is a qualification process in participation at Asian Games. Only the top teams among the 45 participating countries may gain the privilege to compete at the Asian Games. Therefore, the team sports events at the Asian Games are very competitive.

5.11 In the 2018 Asian Games, 12 teams (Note 29) of 7 team sports (excluding ice hockey which is a winter sport) participated in various competitions. The performance targets set for this first development stage of the 5-year programme (see para. 5.5(a)) were that the final positions of the teams in the 2018 Asian Games should be higher than those in the 2014 Asian Games. Audit noted that of the 12 teams:

- (a) over the short time span from the launch of the 5-year programme in January 2018 to the holding of the 2018 Asian Games in August 2018, there were improvements in the performance of 3 teams. According to HAB, the men's baseball and women's hockey teams recorded first win at the Asian Games, while the men's handball achieved its best ever finish; and
- (b) on the other hand, 9 teams did not achieve the performance targets.

Details are shown in Table 41.

Note 29: *A team sport may comprise two teams (i.e. a men team and a women team).*

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Table 41

**Achievements of performance targets by
seven team sports in 2018 Asian Games**

Team	Sport	Men/Women Team	Result of 2014 Asian Games	2018 Asian Games	
				Target	Result
			(Position/No. of participating teams from Asian countries or regions including Hong Kong, China)		
Targets achieved (3 teams — teams 1 to 3)					
1	Baseball	Men	7th/8 teams	7th/8 teams	6th/8 teams
2	Handball	Men	11th/14 teams	10th/13 teams	8th/13 teams
3	Hockey	Women	8th/8 teams	9th/10 teams	9th/10 teams
Targets not achieved (9 teams — teams 4 to 12)					
4	Basketball	Men	13th/16 teams	12th/15 teams	13th/13 teams (2 teams withdrawn)
5		Women	9th/11 teams	8th/10 teams	10th/10 teams
6	Handball	Women	6th/9 teams	6th/10 teams	7th/10 teams
7	Hockey	Men	Not participated in 2014 Asian Games	11th/12 teams	12th/12 teams
8	Softball	Women		6th/7 teams	7th/7 teams
9	Volleyball	Men	15th/16 teams	15th/20 teams	19th/20 teams
10		Women	7th/9 teams	6th/11 teams	11th/11 teams
11	Water polo	Men	7th/7 teams	8th/9 teams	9th/9 teams
12		Women	6th/6 teams	5th/6 teams	6th/6 teams

Source: HAB records

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5.12 As stated in paragraph 5.4, with the introduction of the 5-year programme, NSAs maintained regular training and organised sports exchange and competitions to improve the performance of the teams. The 5-year programme aims at enhancing the performance of the eight team sports progressively and increasing their chances of attaining elite sports status in the future, with the ultimate goal of improving the performance of the team sports in the 2022 Asian Games (see para. 5.3). Nevertheless, the fact that 9 of the 12 teams that participated in the 2018 Asian Games did not achieve the performance targets in the first development stage of the 5-year programme is not conducive to attaining the aims and ultimate goal of the programme. In late 2018, meetings were held to review the performance of the relevant NSAs in the 2018 Asian Games, the implementation of the 5-year programme, and the relevant NSAs' 2019 training plans. The 5-year programme is now in its third development stage of pre-2022 Asian Games from 2020 to 2022 (see para. 5.5(c)). Audit considers that HAB needs to closely monitor the implementation of this development stage, including deliberating with the Coordinating Committee (see para. 5.8) about how best to accomplish the aims and ultimate goal of the programme.

Audit recommendation

5.13 **Audit has *recommended* that the Secretary for Home Affairs should closely monitor the implementation of the third development stage (i.e. pre-2022 Asian Games from 2020 to 2022) of the Five-Year Development Programme for Team Sports, including deliberating with the Coordinating Committee about how best to accomplish the aims and ultimate goal of the programme.**

Response from the Government

5.14 The Secretary for Home Affairs accepts the audit recommendation. He has said that HAB will continue to hold regular review meetings with the relevant NSAs, and conduct site visits to team training for in-depth discussion on their respective training and development plans.

District Football Funding Scheme

5.15 As mentioned in paragraph 1.8, ASDF provided and HAB continues to provide funding for DFFS. Table 42 shows the salient features of DFFS.

Table 42

Salient features of DFFS

	Features
Executive arm (Note)	DOs
Target applicant	District Football Teams (DFTs) (see Photograph 8 for an example) participating in football league competitions organised by HKFA
	DFTs submit applications with project proposals and budgets to DOs. After vetting the applications, DOs submit recommendations for HAB's approval.
Expense covered (examples)	<ul style="list-style-type: none"> • Administrative costs • Coaching • Equipment • Meals and beverages • Transportation fees • Registration fees and insurance
Funding limit	<p>For a DFFS funding period (i.e. start in June and end in May in the ensuing year):</p> <ul style="list-style-type: none"> • HKPL Clubs: \$1,650,000 • First Division Clubs: \$550,000 • Second Division Clubs: \$385,000 • Third Division Clubs: \$330,000
Funding disbursement	Funding is provided on a reimbursement basis

Source: HAB records

Note: DOs are the executive arm of HAB in managing DFFS. They vet applications from target applicants and monitor the implementation of the Scheme.

Photograph 8

**A DFT undergoing training
(September 2019)**



Source: DO records

5.16 Table 43 shows the amounts of funds disbursed to DFPS and the number of beneficiaries of DFPS (i.e. DFTs) in the period 2014-15 to 2018-19.

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Table 43

**Funds disbursed to DFFS and number of beneficiaries
(2014-15 to 2018-19)**

	2014-15	2015-16	2016-17	2017-18	2018-19
Funds disbursed (Note 1)	\$10,227,115	\$10,082,266	\$10,224,761	\$10,175,052	\$10,960,303
No. of beneficiaries (Note 2)	18	18	18	18	18

Source: HAB records

Note 1: In the period 2014-15 and 2015-16, DFFS was funded by ASDF. Since 2016-17, it has been funded by HAB's recurrent expenditure.

Note 2: There is a DFT in each of the 18 districts in Hong Kong.

5.17 Audit examined DFFS and noted that there is scope for improvement in a number of areas (see paras. 5.18 to 5.26).

Scope for improvement in reporting achievements by DFTs under DFFS

5.18 For performance monitoring purpose, under DFFS, a DFT is required to submit to its respective DO a mid-term report and a final report in March (during the DFFS funding period) and June (after the DFFS funding period) respectively. In the reports, the DFT provides information on:

- (a) the project income and expenses;
- (b) the dates of training sessions;
- (c) the dates of competitions held; and
- (d) with effect from September 2017, the community building activities organised.

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5.19 The respective DO, on the other hand, is required to submit to HAB the mid-term report of the DFT in April, and the final report of the DFT together with a performance evaluation report in July. The performance evaluation report indicates the DFT's:

- (a) achievements against four performance targets (which are mandatorily set in the DFT's application for funding under DFFS), namely;
 - (i) the average number of training hours with coaches per month;
 - (ii) the average number of spectators in home matches;
 - (iii) the position in the league compared with the previous DFFS funding period; and
 - (iv) starting from September 2017, the target for community building activities (e.g. the number of activities to be organised and the details of the activities).

In addition, the DO is required to provide explanations on any significant differences between the achievements and the set targets. According to HAB, explanations of significant differences would enable consideration as to whether follow-up action is required in order to help the DFT achieve its targets;

- (b) use of funds; and
- (c) timeliness of submission of mid-term and final reports.

5.20 Audit examined the performance evaluation reports submitted by DOs to HAB in the DFFS funding periods 2014/15 to 2018/19, and noted that:

- (a) of the 18 DFTs, out of the four performance targets, 4 DFTs continuously did not achieve one or more of the targets throughout the entire period (see Table 44), while the other 14 (18 minus 4) DFTs did not achieve at least one of the targets in one or more years (see Table 45); and

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Table 44

**4 DFTs continuously not achieving performance targets
(DFFS funding periods 2014/15 to 2018/19)**

DFT	No. of targets not achieved in the DFFS funding period				
	2014/15	2015/16	2016/17	2017/18	2018/19
A	2	1	2	2	2
B	1	2	2	2	1
C	1	2	3	2	2
D	1	1	2	2	2

Source: Audit analysis of DO records

Table 45

**14 DFTs not achieving at least one performance target
(DFFS funding periods 2014/15 to 2018/19)**

DFT	No. of targets not achieved in the DFFS funding period				
	2014/15	2015/16	2016/17	2017/18	2018/19
E	0	1	0	2	0
F	0	1	0	1	1
G	0	1	0	1	1
H	1	1	1	1	0
I	1	0	0	0	1
J	1	0	0	0	0
K	2	2	0	1	0
L	1	0	0	0	1
M	1	1	0	1	2
N	1	0	1	0	0
O	1	1	2	1	0
P	2	1	0	0	1
Q	1	N.A. (Note)	1	1	0
R	1	1	0	0	2

Source: Audit analysis of DO records

Note: The achievements of performance targets were not reported by the DFT.

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(b) notwithstanding the under-achievements mentioned in (a) above, explanations had not been provided by 10 of the 18 DFTs. While the remaining 8 DFTs had provided explanations, some “significant differences”, which had not been defined by HAB, were left unexplained. For example:

- (i) for a DFT, the “average number of training hours with coaches per month” was “58% under-achieved” in the DFFS funding period 2018/19;
- (ii) for another DFT, for the DFFS funding periods 2014/15 to 2017/18, while the “average number of spectators in home matches” was set at 100, there were under-achievements throughout the four years ranging from 60% to 66% (for 2018/19, while the target was revised downwards from 100 to 50, there was still an under-achievement of 36%); and
- (iii) for a further DFT, while for the DFFS funding period 2018/19, the target for the “position in the league compared with the previous DFFS funding period” was “2nd”, the achieved position was “6th”.

Moreover, there was no evidence indicating that DOs or HAB had taken any follow-up actions in the above cases. In March 2020, HAB informed Audit that it had reviewed the 90 evaluation reports submitted by the 18 DOs in the DFFS funding periods 2014/15 to 2018/19. In 68 reports, DOs had documented their follow-up actions (such as issuing reminders) with DFTs on many unachieved targets in the past. In the other 22 reports, there was no DOs’ documentation of their follow-up actions for the unmet performance indicators.

5.21 Audit further noted that:

- (a) there was no requirement stipulating that DFTs should report their achievements in their reports. DFTs’ achievements (against the performance targets as recorded in performance evaluation reports submitted by DOs to HAB — see para. 5.19) were either reported by DFTs on their own initiative in their reports or made known to DOs upon DOs’ enquiries for the purpose of assessing DFTs’ achievements; and

- (b) in Audit's visits to two DOs (one in Kowloon and another in the New Territories) to examine DFFS, Audit noted that for the DO in Kowloon, while it was not a stipulated requirement, the DFT concerned had provided to the DO supporting documents (e.g. training records, and detailed breakdown of number of spectators in different matches) for the DFT's reported achievements. On the other hand, the DFT concerned in the New Territories had not done so. Upon Audit's enquiry in July 2019, the staff concerned of the DO in the New Territories informed Audit that while the DFT had not provided any supporting documents, he had made telephone enquiries with the DFT to confirm that the achievements reported were in order.

5.22 Audit considers that HAB needs to clearly define "significant differences" between the achievements and the set performance targets of DFTs. On the other hand, DOs need to require all DFTs to report their achievements against the performance targets in their reports submitted to DOs, and to provide supporting documents for their reported achievements. Furthermore, DOs need to require DFTs to provide explanations for any "significant differences", and to ensure that necessary follow-up actions are taken on such differences so as to help DFTs achieve their performance targets.

Need for proper control on purchases made under DFFS

5.23 According to the guidelines on applications for funding under DFFS:

- (a) DFTs should exercise prudence and uphold the principles of openness, fairness, competitiveness and value for money in dealing with purchasing matters; and
- (b) DFTs' purchases should follow the guidelines laid down in DOs' Manual on the use of District Funds, which, for example, requires two written quotations for purchase of goods and services with an amount between \$1,500 and \$50,000 inclusive.

5.24 Furthermore, under DFFS, DFTs are required to submit in March and June of a DFFS funding period, information on quotations obtained, receipts for goods and

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services purchased, and completed reimbursement forms for claiming reimbursement of expenses.

5.25 In visiting the two DOs (see para. 5.21(b)), Audit noted that in the DFFS funding periods 2014/15 to 2018/19, the two respective DFTs (of the two DOs) had not provided any information on quotations obtained for the following purchases:

- (a) for the DFT in Kowloon, 5 purchases of football team insurances and 2 purchases of goods (i.e. footballs) amounting to a total of \$37,504 and \$6,765 respectively; and
- (b) for the DFT in the New Territories, 5 purchases of football team insurances and 12 purchases of goods (e.g. water and sportswear) amounting to a total of \$54,008 and \$160,000 respectively.

The two DFTs also had not given any reasons for not providing the information on quotations obtained (e.g. sole suppliers).

5.26 It was therefore uncertain whether the two DFTs had obtained any quotations for the aforesaid purchases. Furthermore, despite the missing information, there was no evidence indicating that the two DOs had taken any follow-up actions. Audit considers that DOs need to take measures to ensure that DFTs provide information on quotations to them, and take follow-up actions where warranted.

Audit recommendations

5.27 Audit has *recommended* that the Secretary for Home Affairs should clearly define “significant differences” between the achievements and the set performance targets of DFTs, and inform DOs about the definition so as to facilitate them to take follow-up actions where warranted.

5.28 Audit has *recommended* that the Secretary for Home Affairs should, acting through DOs:

- (a) **require all DFTs to report their achievements against the performance targets in their reports submitted to DOs;**
- (b) **require DFTs to provide supporting documents for their reported achievements against the performance targets to DOs and conduct verifications accordingly;**
- (c) **require DFTs to provide explanations for any “significant differences” to DOs and ensure that necessary follow-up actions are taken by DOs on such differences so as to help DFTs achieve their performance targets; and**
- (d) **take measures to ensure that DFTs provide DOs with information on quotations obtained in making purchases, and that DOs take follow-up actions where warranted.**

Response from the Government

5.29 The Secretary for Home Affairs accepts the audit recommendations. He has said that:

- (a) with input from DOs, HAB would review the performance reporting and assessment mechanism as well as update the guidelines for DFTs as appropriate;
- (b) HAB will ask DOs to follow up the review mentioned in (a) above with a view to ensuring DFTs’ compliance with the revised guidelines, and revised performance reporting and assessment mechanism; and
- (c) HAB will ask DOs to step up monitoring of the procurement activities of DFTs, including the submission of information on quotations obtained in making purchases, to ensure compliance with DOs’ Manual on the use of District Funds.

Hong Kong Paralympic Committee & Sports Association for the Physically Disabled programmes

5.30 As mentioned in paragraph 1.8(c), funding is provided to HKPC&SAPD to hire three staff to implement programmes to help athletes with disabilities achieve good results at the Paralympic Games and the Asian Para Games. Under the ASDF's funding, these programmes were known as the Striving For Excellence Programme and the Sustaining Optimal Performance Programme. Similar programmes are continually funded through HAB's recurrent expenditure as part of the Government's funding support to HKPC&SAPD.

5.31 The three staff of HKPC&SAPD (see para. 5.30) are the Programme Director and two Programme Officers. Their roles are as follows:

- (a) the Programme Director is responsible for overseeing the programmes to ensure smooth implementation and progress of the programmes according to the plans; setting specific, measurable and realistic key performance indicators to evaluate the progress and results of the programmes; and formulating preparation plans for para games;
- (b) one Programme Officer serves as the primary contact point with IPC and other international sports federations; and coordinates sports science and sports medicine support activities as well as coaching development activities; and
- (c) the other Programme Officer promotes Paralympic Movement through publicity of related programmes and activities; coordinates publicity activities for Hong Kong's participation in multi-sports games; and provides supports to athletes other than technical to facilitate implementation of the respective sports training programmes.

5.32 Table 46 shows the amounts of funding provided to HKPC&SAPD in the period 2011-12 to 2018-19.

Table 46

**Funding to HKPC&SAPD
(2011-12 to 2018-19)**

Year	Amount of funding (\$)
2011-12	670,000
2012-13	1,380,000
2013-14	1,440,000
2014-15	1,120,000
2015-16	795,000
2016-17	1,640,000
2017-18	1,720,000
2018-19	1,335,000

Source: HAB records

Remarks: The first funding was provided to HKPC&SAPD through ASDF in 2011-12. Since January 2019, funding had been provided through HAB's recurrent expenditure (see para. 1.8).

***Need to review the effectiveness of funding
provided to HKPC&SAPD***

5.33 According to HAB records, HKPC&SAPD programmes aimed/aim at helping the Hong Kong Paralympian teams achieve good results in the Paralympic Games in 2012 and 2016 as well as the Asian Para Games in 2014 and 2018. Audit analysed the results of the Hong Kong Paralympian teams in the Paralympic Games and the Asian Para Games. Details are shown in Table 47.

Table 47

**Results of Hong Kong Paralympian teams in
Paralympic Games and Asian Para Games
(2008 to 2018)**

Games	No. of medals				Ranking of Hong Kong in terms of no. of medals	No. of countries or regions participated in the Games
	Gold	Silver	Bronze	Total		
<i>Paralympic Games</i>						
2008 Beijing (Note)	5	3	3	11	25	146
2012 London	3	3	6	12	34	164
2016 Rio	2	2	2	6	40	160
<i>Asian Para Games</i>						
2010 Guangzhou (Note)	5	9	14	28	9	41
2014 Incheon	10	15	19	44	8	41
2018 Jakarta	11	16	21	48	10	43

Source: HAB records and Paralympic Games official website

Note: The number of medals and rankings of Hong Kong in the 2008 Paralympic Games and the 2010 Asian Para Games were shown for comparison purpose.

5.34 As shown in Table 47 in paragraph 5.33:

- (a) for the Paralympic Games, the number of medals attained by the Hong Kong Paralympian teams decreased from 12 in the 2012 Paralympic Games to 6 in the 2016 Paralympic Games. Furthermore, the ranking of Hong Kong in terms of number of medals dropped from 25 in the 2008 Paralympic Games to 40 in the 2016 Paralympic Games; and
- (b) for the Asian Para Games, while the number of medals attained by the Hong Kong Paralympian teams increased from 28 in the 2010 Asian Para Games to 48 in the 2018 Asian Para Games, the ranking of Hong Kong in terms of number of medals dropped slightly from 9 in the 2010 Asian Para Games to 10 in the 2018 Asian Para Games.

5.35 In March 2020, based on information provided by HKPC&SAPD, HAB informed Audit that:

- (a) for Paralympic Games, the drop in the number of medal and overall ranking was mainly due to retirement of medallists, aging of athletes, and that some events (e.g. wheelchair fencing) which were traditionally Hong Kong's medal events had become more competitive etc.;
- (b) for Asian Para Games, some new events were added in the Games which Hong Kong did not take part. Indonesia and India captured several medals in these events which made their overall ranking stood above Hong Kong's. At the same time, two sports events which Hong Kong captured medals in the last Games were cancelled; and
- (c) in general, more resources have been put into disability sports by different countries and regions in the past decade and the competitiveness in both Games have increased substantially.

5.36 Given that programmes similar to the Striving for Excellence Programme and the Sustaining Optimal Performance Programme are continually funded through HAB's recurrent expenditure (see para. 5.30), Audit considers that HAB needs to continue to review the effectiveness of the funding provided to HKPC&SAPD to help the Hong Kong Paralympian teams achieve good results in the Paralympic Games and the Asian Para Games.

Audit recommendation

5.37 Audit has *recommended* that the Secretary for Home Affairs should continue to review the effectiveness of the funding provided to HKPC&SAPD to help the Hong Kong Paralympian teams achieve good results in the Paralympic Games and the Asian Para Games, and instigate improvement measures where warranted.

Response from the Government

5.38 The Secretary for Home Affairs accepts the audit recommendation. He has said that HAB is committed to supporting the further development of disability sports. To enhance the competitiveness of our athletes, HAB provided additional resources to launch a new scheme in December 2017 to support the development of elite disability sports and full-time training of athletes with disabilities. HAB will continue to monitor progress of the scheme.

PART 6: GOVERNANCE OF THE SPORTS COMMISSION AND ITS COMMITTEES

6.1 This PART examines the governance matters of SC and its three underpinning committees, focusing on:

- (a) management of meetings and attendance (paras. 6.4 to 6.17);
- (b) management of potential conflicts of interest (paras. 6.18 to 6.27); and
- (c) other governance matters (paras. 6.28 to 6.36).

Background

6.2 Over the years, Audit has conducted various audits concerning different issues relating to sports development in Hong Kong (see para. 1.15). Against this background, Audit conducted this review (i.e. management of funding for sports development through ASDF) and the review of SF&OC (see para. 1.16).

6.3 On sports development, HAB is advised by SC on various matters including the provision of funding and resources. Taking the opportunity of this audit review, Audit examined the general governance matters of SC and its committees (see para. 6.4) in relation to sports development in Hong Kong.

Management of meetings and attendance

6.4 SC has three underpinning committees, namely, CSC, ESC and MSEC (see para. 1.14) (SC and the underpinning committees are hereinafter collectively referred to as “SC/committees” unless otherwise stated). Each of SC/committees has a membership comprising a Chairperson, a Vice-chairperson, ex-officio members and other members (Note 30). Members (including Chairpersons and Vice-chairpersons) are appointed by the Secretary for Home Affairs for a term of two years (Note 31).

6.5 For SC, ESC and MSEC, secretariat services are provided by HAB. For CSC, secretariat services are provided by LCSD. HAB and LCSD have issued Standing Orders for each of SC/committees governing its operation (Note 32). According to the Standing Orders:

- (a) ***Frequency of meetings.*** For SC, regular meetings may be held once every three to four months, and the Chairperson may vary the frequency of the meetings. For the three underpinning committees, regular meetings may be held every three months; and
- (b) ***Quorum.*** At a meeting, the quorum shall be at least half of the membership.

Note 30: *SC has a membership of 21 people (including 8 ex-officio members and 11 other members). CSC has a membership of 24 people (including 5 ex-officio members and 17 other members). ESC has a membership of 16 people (including 4 ex-officio members and 10 other members). MSEC has a membership of 20 people (including 5 ex-officio members and 13 other members). For SC, ex-officio members include the Chairpersons and Vice-chairpersons of the underpinning committees. For CSC, ESC and MSEC, ex-officio members include representatives from HAB and LCSD.*

Note 31: *For SC, the Chairperson is the Secretary for Home Affairs.*

Note 32: *Standing Orders for SC, ESC and MSEC are issued by HAB. Standing Orders for CSC are issued by LCSD.*

Need to review and update Standing Orders

6.6 In the period 2015 to 2019, SC/committees held a total of 43 meetings. Table 48 shows that the number of meetings had, on the whole, decreased by 36% from 11 in 2015 to 7 in 2019.

Table 48

**Meetings of SC/committees
(2015 to 2019)**

SC/ committees	No. of meetings						Average no. of meetings (b) = (a) ÷ 5
	2015	2016	2017	2018	2019	Total (a)	
SC	3	2	2	2	2	11	2
CSC	3	3	2	2	1	11	2
ESC	3	2	2	2	2	11	2
MSEC	2	2	2	2	2	10	2
Total	11	9	8	8	7	43	

Source: Audit analysis of HAB and LCSD records

6.7 According to the Standing Orders, regular meetings of SC may be held once every three to four months (i.e. 4 or 3 meetings a year), and regular meetings of the underpinning committees may be held every three months (i.e. 4 meetings a year) (see para. 6.5(a)). However, as shown in Table 48, on average, each of SC/committees held only 2 meetings per year in years 2015 to 2019. This was less frequent than holding 4 or 3 meetings a year as stated in the Standing Orders.

6.8 In March 2020, HAB informed Audit that the Standing Orders were last updated some 15 years ago in 2005. In Audit's view, given the long lapse of time, the Standing Orders might be outdated. Without an updated reference, it is unclear as to whether the number of meetings held (which had decreased over the years — see para. 6.6) could adequately meet the operational needs of SC/committees.

6.9 Audit considers that, to ensure that the functions of SC/committees (see paras. 1.13 and 1.14) are effectively carried out, HAB and LCSD need to review the frequency of SC/committee meetings laid down in the Standing Orders and update the Standing Orders as appropriate.

Decreased attendance at meetings

6.10 In examining members' attendance at meetings in the period 2015 to 2019, Audit noted that, for CSC, ESC and MSEC, there was a decrease in the percentage of members attending meetings in 2019 vis-à-vis 2015 (see details at Table 49):

- (a) **CSC.** Over the period, the attendance rates ranged from 75% to 83%. Comparing 2019 with 2015, the attendance rate decreased by 4 percentage points;
- (b) **ESC.** Over the period, the attendance rates ranged from 69% to 84%. Comparing 2019 with 2015, the attendance rate decreased by 8 percentage points; and
- (c) **MSEC.** Over the period, the attendance rates ranged from 65% to 83%. Comparing 2019 with 2015, the attendance rate decreased by 13 percentage points.

Table 49

**Attendance rates of SC/committee members at meetings
(2015 to 2019)**

SC/ committees	No. of members in the period	Attendance rate (Note)					
		2015	2016	2017	2018	2019	2019 vs 2015 (Increase +/ Decrease –) (percentage point)
SC	20 or 21	78%	81%	81%	75%	81%	+ 3
CSC	21 to 24	79%	83%	82%	75%	75%	– 4
ESC	16 or 17	77%	84%	74%	82%	69%	– 8
MSEC	18 to 21	78%	67%	75%	83%	65%	– 13

Source: Audit analysis of HAB and LCSD records

Note: For each year, the attendance rate of SC or an underpinning committee was calculated by taking the average of the attendance rates of its individual meetings held in the year.

6.11 In March 2020, HAB informed Audit that:

- (a) the figures (see Table 49) did not show a clear trend of declining attendance rates of the three committees. There were social unrest situations in 2019 which posed great safety risks to individuals entering government complexes. The decrease in attendance rates in 2019 should be viewed against such situations; and
- (b) as a matter of fact, the average attendance rates in 2015 to 2019 were well above quorum.

6.12 In Audit's view, meetings of SC/committees are an important forum where members can exchange ideas and discuss issues in an interactive manner. While noting HAB's explanations (see para. 6.11), Audit also noted room for improving attendance (see paras. 6.13 to 6.15).

Need to take measures to encourage attendance

6.13 Audit further examined, for the period 2015 to 2019, individual members' attendance at the meetings. Audit noted that, each year, there were members who did not attend any meetings of SC or an underpinning committee. Table 50 shows that the number of such members totalled 32 in the period.

Table 50

**Number of members who did not attend any meetings
(2015 to 2019)**

SC/ committees	No. of members					Total
	2015	2016	2017	2018	2019 (Note)	
SC	0	2	0	2	0	4
CSC	0	1	1	3	6	11
ESC	2	0	1	1	3	7
MSEC	0	4	2	1	3	10
Total	2	7	4	7	12	32

Source: Audit analysis of HAB and LCSD records

Note: According to HAB, the social unrest situations in 2019 posed great safety risks to individuals entering government complexes (see para. 6.11(a)).

6.14 In March 2020, HAB informed Audit that members of SC/committees were appointed for a term of two years (see para. 6.4). From 2015 to 2019, while there were members who did not attend meetings for a whole year (see Table 50), none of the SC members and ESC members had continuously failed to attend all meetings throughout their two-year tenure.

6.15 However, records did not indicate that HAB and LCSD had taken actions to encourage members to attend meetings (especially for those who were repeatedly absent from meetings). Audit considers that HAB and LCSD need to encourage members to continue attending meetings. Efforts could include, for example, reminding members from time to time (including at the time of appointing/reappointing members) of the importance of attending meetings, and ascertaining whether members have difficulties in attending meetings and providing assistance to them (e.g. rescheduling the meeting dates and arranging other venues) where possible.

Audit recommendations

6.16 **Audit has *recommended* that the Secretary for Home Affairs and the Director of Leisure and Cultural Services should:**

- (a) **review the frequency of SC/committee meetings laid down in the Standing Orders and update the Standing Orders as appropriate; and**
- (b) **step up efforts to encourage SC/committee members to attend meetings.**

Response from the Government

6.17 The Secretary for Home Affairs and the Director of Leisure and Cultural Services accept the audit recommendations. The Secretary for Home Affairs, with the support of the Director of Leisure and Cultural Services, has said that HAB and LCSD would:

- (a) review the frequency of meetings laid down in the Standing Orders and update the Standing Orders as appropriate; and
- (b) step up efforts to encourage members to attend meetings.

Management of potential conflicts of interest

6.18 In 2005, the Secretary for Home Affairs issued a memorandum entitled “Advisory and Statutory Bodies — Declaration of Interests” to all advisory and statutory bodies of government bureaux and departments. According to the memorandum:

- (a) there are two systems to make a declaration of interests:
 - (i) ***One-tier reporting system.*** When a member of a committee has a potential conflict of interest in a matter placed before the committee, he/she should make full disclosure of his/her interest; and

- (ii) ***Two-tier reporting system.*** This system applies to committees with extensive powers over policy or financial matters. Under the system, a member should disclose his/her general pecuniary interest on appointment to the committee and annually thereafter, in addition to the report of conflicts of interest as and when they arise;
- (b) examples of potential conflicts of interest situations include a directorship, partnership, advisory or other significant connection with a club, association, union and other organisation which is connected with, or the subject of, a matter under consideration by the committee;
- (c) the chairperson (or the committee) shall decide whether the member disclosing an interest may speak or vote on the matter, may remain in the meeting as an observer, or should withdraw from the meeting; and
- (d) all cases of declaration of interests shall be recorded in the minutes of meetings.

6.19 A one-tier reporting system has been adopted for SC and its underpinning committees. According to the Standing Orders (see para. 6.5), if any member has any potential conflicts of personal or pecuniary interest direct or indirect in any matter under consideration by SC or an underpinning committee, the member shall declare it to SC or the underpinning committee as appropriate prior to the discussion of that item (Note 33).

Need to improve management of potential conflicts of interest

6.20 Audit examined the minutes of meetings of the SC/committees for the period 2015 to 2019, and noted occasions where members of SC did not adequately declare potential conflicts of interest (see Case 5).

Note 33: *According to the Standing Orders, the member shall withdraw from discussions, unless being invited to speak by the Chairperson, of that item at the meeting. Furthermore, the member will not be allowed to vote on the matter under consideration.*

Case 5

**Members of SC did not adequately declare potential conflicts of interest
(2015 to 2019)**

1. The Government provided regular funding to Organisation A for its sports and related activities. SC was responsible for endorsing the annual plan and budget of Organisation A every year.

2. Some members of SC were also members of Organisation A's board of directors (i.e. Organisation A's directors). Audit compared the information on SC members with that of Organisation A's directors (as published on Organisation A's website), and noted that in the period 2015 to 2019, of the 5 SC meetings where annual plans and budgets of Organisation A were endorsed:

- (a) at 2 meetings, there were a total of 34 attendees (comprising 26 SC members), including 5 attendees who were Organisation A's directors. All the 5 attendees declared the directorship; and
- (b) at the other 3 meetings, there were a total of 46 attendees (comprising 26 SC members), including 7 attendees who were Organisation A's directors. None of them declared the directorship.

Details of the meetings and the numbers of attendees are summarised in the Table below.

Date of SC meeting	Total no. of attendees	No. of attendees	
		Being Organisation A's director	Declared directorship
<i>Attendees declared directorship</i>			
5.3.2015	19	3	3
9.4.2019	15	2	2
Total	34	5	5
<i>Attendees did not declare directorship</i>			
7.3.2016	16	1	0
16.3.2017	15	3	0
21.3.2018	15	3	0
Total	46	7 (Note)	0

Note: The 7 attendees comprised 5 members.

Case 5 (Cont'd)

Audit comments

3. Being Organisation A's directors, the 7 attendees (comprising 5 members) had potential conflicts of interest at the SC meetings. They should have declared their directorship as required (see para. 6.19).

Source: HAB records and Organisation A's website

6.21 During the examination of the minutes of meetings (see para. 6.20), Audit also noted that according to the Standing Orders of SC and ESC, a declaration of interests by any member shall be recorded in the minutes of the meeting (Note 34). However, there was no similar requirement in the Standing Orders of CSC and MSEC. Subsequently, in March 2020, LCSD informed Audit that the requirement had been included in the Standing Orders of CSC.

6.22 Audit considers that HAB needs to remind members of SC to declare potential conflicts of interest as required by the Standing Orders. To enhance transparency and accountability, HAB also needs to consider including a requirement in the Standing Orders of MSEC, whereby declaration of interests by any member shall be recorded in the minutes of meetings.

Need to review the system for declaring interests

6.23 By the memorandum of 2005 (see para. 6.18), bureaux and departments are reminded to review from time to time the systems for declaring interests for the advisory and statutory bodies under their purview, so as to ensure that the systems match the needs of the bodies concerned.

Note 34: *For the 5 SC attendees who had declared potential conflicts of interest in Case 5 in paragraph 6.20, rulings were made at the meetings. According to the rulings, the 5 SC attendees were allowed to remain in the meetings. The rulings had been recorded in the minutes of the meetings pursuant to the Standing Orders.*

6.24 In this regard, the SC/committees have adopted a one-tier reporting system. Records did not indicate that HAB and LCSD had reviewed, from time to time, the SC/committees' system for declaring interests having regard to the memorandum of 2005. Audit considers that HAB and LCSD need to periodically review the system for declaring interests for the SC/committees.

Audit recommendations

6.25 **Audit has *recommended* that the Secretary for Home Affairs should:**

- (a) **remind members of SC to declare potential conflicts of interest as required by SC Standing Orders; and**
- (b) **consider including a requirement in the Standing Orders of MSEC, whereby declaration of interests by any member shall be recorded in the minutes of meetings.**

6.26 **Audit has *recommended* that the Secretary for Home Affairs and the Director of Leisure and Cultural Services should, having regard to the memorandum of 2005, periodically review the system for declaring interests for the SC/committees.**

Response from the Government

6.27 The Secretary for Home Affairs and the Director of Leisure and Cultural Services accept the audit recommendations. They have said that:

- (a) HAB would remind members of SC to declare potential conflicts of interest as required by the Standing Orders;
- (b) to ensure that the due process regarding declaration of interests is complied with, HAB and LCSD would record the deliberations on such a process in the minutes of the meetings of SC/committees even when none of the members have declared interests for the discussion items; and

- (c) HAB would work with LCSD to periodically review the system for declaration of interests of SC/committees.

Other governance matters

6.28 On the disclosure of information on meetings, according to the Standing Orders:

- (a) the notice of meeting, the agenda and the papers of a meeting shall be made available to the public by the secretary in good time (i.e. via the HAB website for meetings of SC, ESC and MSEC, and via the LCSD website for meetings of CSC), unless the nature and/or contents of which are confidential; and
- (b) the information on a meeting (see (a) above) shall be posted on the HAB website and the LCSD website, as appropriate, within the calendar year in which the meeting was held.

Room for improvement in disclosure of meeting information

6.29 In January 2020, Audit examined the posting of information on the HAB website/LCSD website for meetings held in the period 2015 to 2019. A total of 43 meetings were held in the period, comprising 11 SC meetings, 11 CSC meetings, 11 ESC meetings and 10 MSEC meetings. Audit found that as at 31 January 2020:

- (a) **Notices of meetings.** Notices of meetings had not been posted for all the 43 (100%) meetings; and
- (b) **Agendas.** Agendas had not been posted for 11 (26%) meetings:
 - (i) **SC.** Agendas for 4 meetings had not been posted;
 - (ii) **ESC.** Agendas for 6 meetings had not been posted; and
 - (iii) **MSEC.** Agenda for 1 meeting had not been posted.

6.30 In March 2020, HAB informed Audit that:

- (a) the requirement on posting notices of meetings (see para. 6.28(a)) was outdated. With advancement of technology, the notices of meetings (see para. 6.29(a)) had been issued to members via e-mails; and
- (b) regarding the agendas (see para. 6.29(b)), they have been available on the websites since February 2020.

6.31 Audit considers that, to enhance transparency and public accountability, HAB and LCSD need to ensure that the Standing Orders are updated with the latest requirements, and that information on meetings of SC/committees is disclosed to the public in accordance with the Standing Orders.

Need to ensure that confidentiality agreements are signed and returned by members

6.32 Members of SC/committees are appointed by the Secretary for Home Affairs (see para. 6.4). According to the practice of HAB and LCSD, members are requested to sign an agreement upon appointment. Under the agreement, which is laid out in a standard form, members undertake to keep matters of SC/committees confidential as necessary.

6.33 Audit examined the members' agreements in the period 2015 to 2019 and found that the agreements of some committee members were missing (i.e. involving one ESC member and four MSEC members). According to HAB, the members did not return the agreements. Audit considers that HAB needs to look into the matter and take remedial actions as necessary.

Audit recommendations

6.34 Audit has *recommended* that the Secretary for Home Affairs and the Director of Leisure and Cultural Services should ensure that:

- (a) the Standing Orders are updated with the latest requirements; and

- (b) **information on meetings of SC/committees is disclosed to the public in accordance with the Standing Orders.**

6.35 **Audit has *recommended* that the Secretary for Home Affairs should:**

- (a) **look into the cases in which the ESC and MSEC members did not return the signed agreements containing the confidentiality clause, and take remedial actions as necessary; and**
- (b) **take measures to ensure that agreements are signed and returned by members of SC/committees.**

Response from the Government

6.36 The Secretary for Home Affairs and the Director of Leisure and Cultural Services accept the audit recommendations. They have said that:

- (a) HAB and LCSD would update the Standing Orders of SC/committees as and when necessary;
- (b) HAB and LCSD would disclose to the public information on the meetings of SC/committees in accordance with the latest Standing Orders; and
- (c) HAB would take measures to ensure that agreements on confidentiality are duly signed and returned by members of SC/committees.

**List of National Sports Associations
(29 February 2020)**

1. China Hong Kong Mountaineering and Climbing Union Limited
- *2. Chinese Young Men's Christian Association of Hong Kong
3. Cricket Hong Kong Limited
4. Handball Association of Hong Kong, China Limited
- *5. Health Qigong Association of Hong Kong, China Limited
6. Hong Kong Amateur Athletic Association Limited
7. Hong Kong Amateur Swimming Association
8. Hong Kong Archery Association
- *9. Hong Kong Association of Sports Medicine and Sports Science Limited
- *10. Hong Kong Automobile Association
11. Hong Kong Badminton Association Limited
12. Hong Kong Basketball Association Limited
13. Hong Kong Billiard Sports Control Council Company Limited
14. Hong Kong Boxing Association Limited
15. Hong Kong Canoe Union Limited
16. Hong Kong China Bodybuilding and Fitness Association
17. Hong Kong China Dragon Boat Association
18. Hong Kong China Korfball Association
19. Hong Kong, China Gateball Association Company Limited
20. Hong Kong, China Rowing Association
- *21. Hong Kong Chinese Chess Association
22. Hong Kong Chinese Martial Arts Dragon and Lion Dance Association Limited
- *23. Hong Kong Contract Bridge Association Limited
24. Hong Kong DanceSport Association Limited
25. Hong Kong Equestrian Federation
26. Hong Kong Federation of Roller Sports Limited
27. Hong Kong Fencing Association
- *28. Hong Kong Go Association Limited
29. Hong Kong Golf Association Limited
30. Hong Kong Ice Hockey Association Limited
31. Hong Kong Kart Club Limited
32. Hong Kong Kendo Association Limited

Appendix A
 (Cont'd)
 (Note 6 to Table 1 in
 para. 1.3 refers)

- *33. Hong Kong Lacrosse Association Limited
- 34. Hong Kong Lawn Bowls Association
- *35. Hong Kong Little League Limited
- *36. Hong Kong Miniature Football Association Limited
- 37. Hong Kong Muay Thai Association Limited
- 38. Hong Kong Netball Association Limited
- *39. Hong Kong Paragliding Association
- 40. Hong Kong Paralympic Committee & Sports Association for the Physically Disabled
- 41. Hong Kong Rugby Union
- 42. Hong Kong Sailing Federation
- 43. Hong Kong Schools Sports Federation
- 44. Hong Kong Shooting Association
- 45. Hong Kong Shuttlecock Association Limited
- 46. Hong Kong Skating Union Limited
- 47. Hong Kong Softball Association
- 48. Hong Kong Sports Association for Persons with Intellectual Disability
- 49. Hong Kong Squash
- 50. Hong Kong Table Tennis Association
- 51. Hong Kong Taekwondo Association Limited
- 52. Hong Kong Tennis Association Limited
- 53. Hong Kong Tenpin Bowling Congress Limited
- 54. Hong Kong Triathlon Association Limited
- *55. Hong Kong Tug-of-War Association Limited
- *56. Hong Kong Ultimate Players Association
- 57. Hong Kong Underwater Association Limited
- 58. Hong Kong Water Ski Association Limited
- *59. Hong Kong Woodball Association Limited
- 60. Hong Kong Wushu Union Limited
- 61. Orienteering Association of Hong Kong Limited
- *62. Physical Fitness Association of Hong Kong, China Limited
- *63. Ski Association of Hong Kong, China Limited
- *64. South China Athletic Association
- 65. The Cycling Association of Hong Kong, China Limited
- 66. The Gymnastics Association of Hong Kong, China

Appendix A
(Cont'd)
(Note 6 to Table 1 in
para. 1.3 refers)

- *67. The Hong Kong Aviation Club Limited
- 68. The Hong Kong Baseball Association Limited
- 69. The Hong Kong Football Association Limited
- 70. The Hong Kong Hockey Association
- 71. The Hong Kong Life Saving Society
- *72. The Hong Kong Society for the Deaf
- 73. The Hong Kong Weightlifting and Powerlifting Association Limited
- 74. The Judo Association of Hong Kong, China
- 75. The Karatedo Federation of Hong Kong, China Limited
- 76. The University Sports Federation of Hong Kong, China Limited
- *77. Victoria Recreation Club
- 78. Volleyball Association of Hong Kong, China Limited
- 79. Windsurfing Association of Hong Kong

Source: LCSD and SF&OC records

- Remarks:*
1. *NSAs with a * are NSAs not subvented by block grant of LCSD's Sports Subvention Scheme.*
 2. *In addition to the above 79 NSAs, which are members of SF&OC, there is an NSA known as the Hong Kong Sports Association of the Deaf which is not a member of SF&OC but subvented by block grant of LCSD's Sports Subvention Scheme.*

**Elite sports supported by the Hong Kong Sports Institute Limited
(29 February 2020)**

Tier A* Sports Sports whose athletes have consistently performed at the highest international level and have the potential to achieve medals at the Olympic Games	
1. Badminton	2. Cycling
3. Table Tennis	4. Windsurfing
Tier A Sports Sports with an Elite Vote Support System (EVSS — Note 1) of 10 points or above, and whose athletes have competed in at least three previous Asian or Olympic Games since 1997	
1. Athletics	2. Billiard Sports
3. Equestrian	4. Fencing
5. Gymnastics	6. Karatedo
7. Rowing	8. Rugby Sevens
9. Sailing	10. Skating
11. Squash	12. Swimming
13. Tennis	14. Tenpin Bowling
15. Triathlon	16. Wushu
Tier B Sports Sports with an EVSS between 7.5 and 10 points	
1. Contract Bridge	2. Dance Sports
3. Dragon Boat	4. Golf
5. Judo	6. Kart
7. Lawn Bowls	8. Life Saving
9. Mountaineering	10. Orienteering
11. Roller Sports	12. Shuttlecock
13. Taekwondo	

Appendix B
(Cont'd)
(Note 7 to Table 1 in
para. 1.3 and para. 5.3 refer)

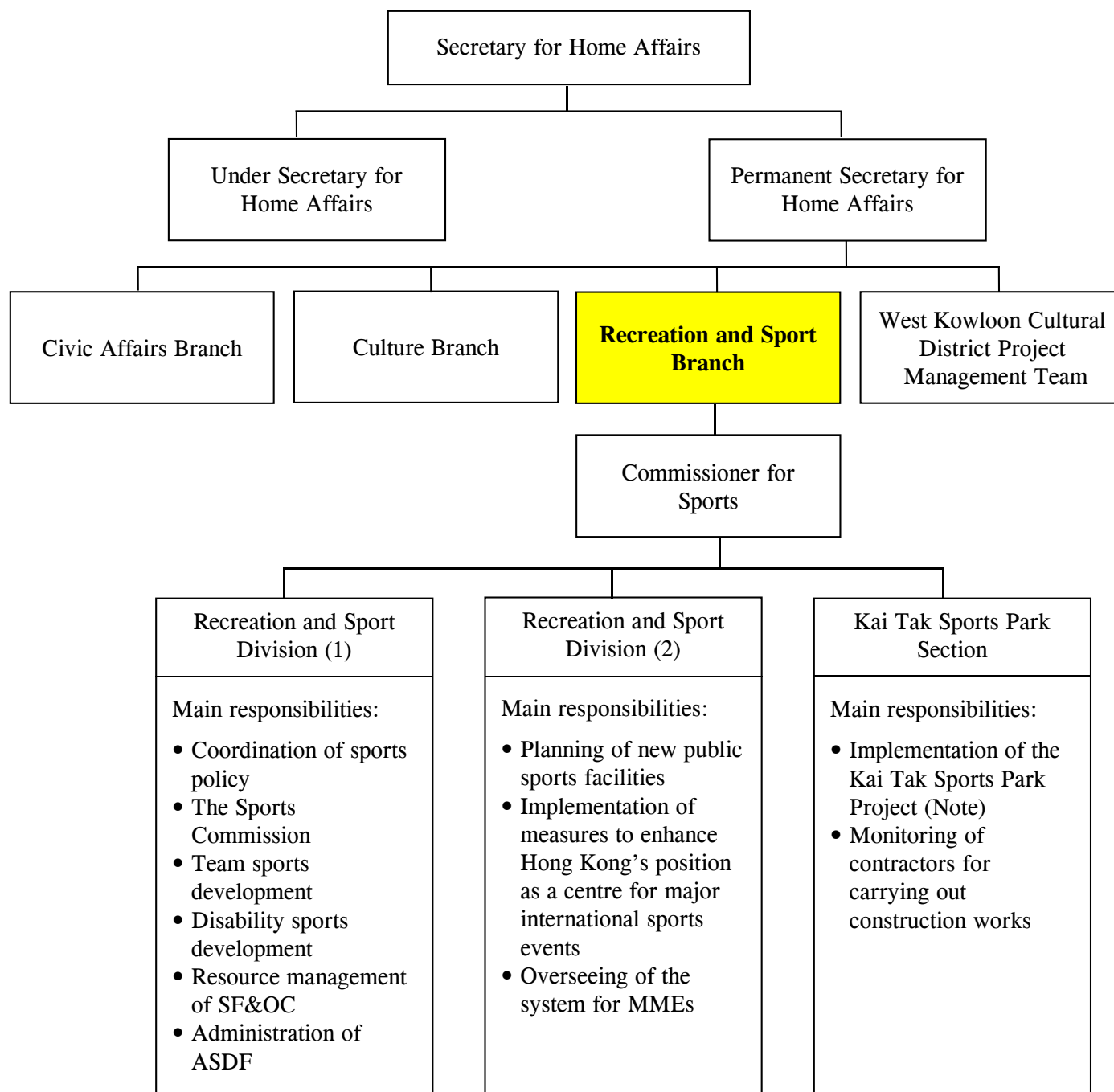
Tier A Disability Sports Sports with an EVSS (disability sports) score (Note 2) of 4 points or above, and are competed or will be competed in the current or recent Paralympic Games	
1. Boccia (Physical Disability)	2. Para Badminton (Physical Disability)
3. Para Table Tennis (Physical Disability)	4. Wheelchair Fencing (Physical Disability)
5. Para Swimming (Intellectual Disability)	6. Para Table Tennis (Intellectual Disability)
Tier B Disability Sports Sports with an EVSS (disability sports) score of 3 points or above, and are competed or will be competed in the current or recent Asian Para Games or Paralympic Games	
1. Para Lawn Bowls (Physical Disability)	2. Para Tenpin Bowling (Physical Disability)

Source: HKSJ records

Note 1: Sports whose athletes performed well at international competitions will achieve points under EVSS. For example, a medal at the Olympic Games will be awarded 6 points and a medal at the Asian Games will be awarded 5 points.

Note 2: Sports whose athletes performed well at international competitions will achieve points under EVSS (disability sports). For example, a medal at the Paralympic Games will be awarded 6 points and a medal at the Asian Para Games will be awarded 5 points.

**Home Affairs Bureau:
Organisation chart (extract)
(29 February 2020)**



Source: HAB records

Note: The Kai Tak Sports Park occupies an area of around 28 hectares in the apron of the former Hong Kong International Airport in Kai Tak. It is estimated to be completed in 2022-23 at a cost of \$32 billion. The Park comprises a multi-purpose main stadium with a spectator capacity of around 50,000, a public sports ground with a spectator capacity of around 5,000, an indoor sports centre and more than 8 hectares of public open space. It will provide venues for international competitions and large-scale sports events.

Hong Kong Football Association Committees (Football season 2018/19)

Committees		Terms of reference
Judicial Bodies		
1.	Appeal Committee	To be responsible for hearing appeals against decisions from the Disciplinary Committee and making the final decisions
2.	Disciplinary Committee	To handle all disciplinary matters relating to matches organised, co-organised, recognised or as participated by HKFA
Standing Committees		
3.	Audit Committee	To advise and make recommendations to the Board on the completeness, accuracy, integrity and fairness of audited annual financial statements, to review HKFA's internal control and risk management systems and to monitor and review the effectiveness of HKFA's internal audit function
4.	Finance and Strategy Committee (Note 1)	To propose the on-going strategy for HKFA as the governing body for football in Hong Kong based on the Consultant's Final Report of the Project Phoenix; to work with the relevant HKFA Committees and the Secretariat to ensure the timely implementation of the action items derived from HKFA Strategic Plan, once approved by the Board; to develop the policies and organisation regarding financial governance within HKFA through the Finance Department; and to oversee the Finance Department operation under HKFA Financial Director and/or the Financial Controller
5.	Organisational Development Committee	To advise, monitor and review from time to time the implementation of the recommendations pertaining to the organisational and human resource management issues outlined in the Consultant's Final Report of the Project Phoenix; to give advice on matters and policies pertaining to HKFA's Secretariat including organisational structure, administrative procedures, staff management and regulations; and to give advice on the office administration as well as the maintenance and development of HKFA's premises
6.	Referees Committee	To classify the referees, to establish the mechanism for the secretariat to appoint referees to matches organised by HKFA and to comply with standard refereeing methods as established by FIFA to ensure uniform implementation of the Laws of the Game
7.	Technical and Playing Committee (Note 2)	Consistently making analysis and recommendations in relation to football training and technical development and various areas of playing (mainly local events) in terms of structure, system, rules and regulations, and scheduling

Appendix D
(Cont'd)
(para. 4.7 refers)

Committees		Terms of reference
Other Committees and Bodies		
8.	Competitions Committee	To organise and manage HKFA competitions, to develop Hong Kong football through competitions, and to recommend policies, regulations, standards and guidelines related to various aspects of HKFA competitions
9.	Electoral Committee	To organise and supervise the election process and to take all decisions relating to the Board election
10.	Legal Committee	To be responsible for analysing and dealing with the development issues of football related laws, constitution, rules and regulations of HKFA and members under its jurisdiction
11.	Marketing and Communications Committee	To be responsible for planning of HKFA's promotional, public relations and communications activities; and liaisons and maintenance of relationships with external stakeholders like government departments, bodies providing subventions and sponsorships, commercial sponsors, media organisations, etc.
12.	Medical Committee	To draw up medical guidelines for coaches, players and referees and to advise on different areas of football medicine
13.	Members Committee	To submit to the HKFA Board procedures for the admission of any association/body/organisation applying for membership of HKFA and to process all the applications received as well as to make recommendations therefrom to the HKFA Board for consideration; to propose plans and activities for promoting, maintaining and strengthening HKFA's relationship with members; and to deal with other matters relating to the members
14.	National Dispute Resolution Chamber	To handle disputes between clubs and players regarding employment and contractual stability as well as those concerning training compensation and solidarity contributions between clubs belonging to HKFA

Source: HKFA records

Note 1: There were two sub-committees under the Finance and Strategy Committee, namely the Finance Sub-committee (which is responsible for managing the finance operation of HKFA) and Strategy Sub-committee (which is responsible for monitoring the implementation of strategies by HKFA).

Note 2: There was one sub-committee under the Technical and Playing Committee, namely the Futsal, Women's Football and Beach Soccer Sub-committee. The duty of the sub-committee is to propose to the Board and/or the Technical and Playing Committee any measures deemed necessary to ensure the development of futsal, and women's football and beach soccer.

Acronyms and abbreviations

AFC	Asian Football Confederation
APC	Asian Paralympic Committee
ASDF	Arts and Sport Development Fund
Audit	Audit Commission
CEO	Chief Executive Officer
CSC	Community Sports Committee
DFFS	District Football Funding Scheme
DFTs	District Football Teams
DOs	District Offices
EAFF	East Asian Football Federation
ESC	Elite Sports Committee
EVSS	Elite Vote Support System
FIFA	Fédération Internationale de Football Association
FTF	Football Task Force
FYSP	Five-Year Strategic Plan
HAB	Home Affairs Bureau
HKFA	Hong Kong Football Association
HKPC&SAPD	Hong Kong Paralympic Committee & Sports Association for the Physically Disabled
HKPL	Hong Kong Premier League

Appendix E
(Cont'd)

HKSI	Hong Kong Sports Institute Limited
HKSSF	Hong Kong Schools Sports Federation
HRD	Human Resources Department
IOC	International Olympic Committee
IPC	International Paralympic Committee
IT	Information technology
LCSD	Leisure and Cultural Services Department
LegCo	Legislative Council
LIEs	Local International Events
MLIEs	Major Local International Events
MMEs	“M” Mark events
MNCs	Major National Championships
MSEC	Major Sports Events Committee
NOC	National Olympic Committee
NSAs	National Sports Associations
OCA	Olympic Council of Asia
SC	Sports Commission
SF&OC	Sports Federation & Olympic Committee of Hong Kong, China
The 5-year programme	Five-Year Development Programme for Team Sports

MANAGEMENT OF FUNDING FOR SPORTS DEVELOPMENT THROUGH THE ARTS AND SPORT DEVELOPMENT FUND (SPORTS PORTION)

Executive Summary

1. According to the Home Affairs Bureau (HAB), the sports portion of the Arts and Sport Development Fund (ASDF — hereinafter ASDF refers only to its sports portion) is an important source of funding for sports development in Hong Kong. As at 31 March 2019, ASDF had a balance of \$2,396 million. ASDF funds: (a) projects of Sports Federation & Olympic Committee of Hong Kong, China (SF&OC) and National Sports Associations (NSAs) for supporting athletes to prepare for and participate in major international games; (b) projects for hosting international sports events locally by NSAs and sports organisations; (c) projects for the development of local football; (d) the Five-Year Development Programme for Team Sports (the 5-year programme) (covering eight team sports); and (e) other one-off initiatives that are important to the development and promotion of sports in Hong Kong organised by SF&OC and NSAs. In 2018-19, the total number of ASDF approved projects was 166 with an approved amount of \$123.8 million.

2. In the past, ASDF had also provided funding to: (a) 18 district-based football teams to help them improve their performance under the District Football Funding Scheme (DFFS); (b) students from low-income families with sporting talent to help them pursue their sporting goals through participation in the programmes and inter-school competitions under the Student Athlete Support Scheme; and (c) Hong Kong Paralympic Committee & Sports Association for the Physically Disabled (HKPC&SAPD) to implement programmes to help athletes with disabilities achieve good results at the Paralympic Games and the Asian Para Games. These schemes and programmes are now funded through HAB's recurrent expenditure (since 2016-17 for the schemes and since January 2019 for the programmes). For the period 2016-17 to 2018-19, 1,881 approved projects were funded through HAB's recurrent expenditure for the schemes and programmes. The total amount of approved grants was \$72 million.

Executive Summary

3. The Recreation and Sport Branch of HAB is responsible for formulating policies relating to sports development and the administration of ASDF. In administering ASDF, HAB is assisted by the Leisure and Cultural Services Department (LCSD) and the District Offices (DOs). LCSD and DOs serve as executive arms of HAB. They assist in vetting some of the ASDF funding applications and monitor the results of the projects concerned.

4. HAB is advised by the Sports Commission (SC) on the policies, strategies and implementation framework for sports development and the provision of funding and resources in support of sports development in Hong Kong, taking into account the input from various stakeholders in sports through partnership and collaboration. The members are appointed by the Secretary for Home Affairs.

5. SC is underpinned by three committees, namely: (a) Community Sports Committee (CSC) which provides advice on wider participation in sports through partnership with different sectors of the community, and on funding priorities for supporting community sports programmes and initiatives; (b) Elite Sports Committee (ESC) which provides advice on matters pertaining to high performance sports, provides policy direction to the Hong Kong Sports Institute Limited, and advises on funding priorities for supporting high performance sports and athletes; and (c) Major Sports Events Committee (MSEC) which provides advice on strategies and initiatives for hosting major sports events through partnership with sports organisations, the tourism industry and the private sector, and on funding priorities for major sports events.

6. The Audit Commission (Audit) has recently conducted a review of the management of funding for sports development through ASDF (including funding for district and school sports schemes and HKPC&SAPD programmes, which were previously funded through ASDF and are now funded through HAB's recurrent expenditure).

Funding for Hong Kong athletes to prepare for and participate in international games

7. ASDF provides funding to support Hong Kong athletes to prepare for and participate in international games which are not supported by any other Government funding. For monitoring purpose, a grantee is required to submit a programme report and audited accounts to HAB or LCSD within four months after the completion of a preparation programme (for preparation fund) or a sports competition (for participation fund). In the report, the grantee needs to provide a list of actual income and expenditure (paras. 2.2 and 2.5).

8. *Room for improvement in setting and measuring performance targets.* Audit examined 15 projects approved under ASDF preparation and participation funds in the period 2015-16 to 2018-19. These 15 projects involved 19 grantees and 28 applications (a project could involve multiple grantees). For these 28 applications, Audit found that:

- (a) for 7 applications, the grantees had not set performance targets when they submitted their applications. Although the grantees had reported achievements in their programme reports, the achievements could not be measured against any targets;
- (b) for 12 applications, some achievements against performance targets were not reported in the programme reports, and there was no evidence indicating that HAB and LCSD had taken any follow-up actions; and
- (c) for 2 applications, the grantees failed to achieve all or some of the performance targets. There was no evidence indicating that HAB and LCSD had taken any follow-up actions (para. 2.7).

9. *Room for improvement in providing explanations for variances.* In examining the 28 applications (see para. 8), Audit found that for 24 applications (86%), there were significant variances (i.e. over 25%) between the estimated and actual amounts of expenditure and/or between those of income, and the grantees had not provided explanations for the variances in their programme reports (para. 2.10).

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10. ***Need to ensure auditors provide adequate assurance.*** As a grant condition, a grantee is required to comply with the procurement requirements (e.g. quotation requirements) and the Code of Conduct (e.g. governing declaration of conflicts of interest and acceptance of advantages) (para. 2.4). In examining the 28 applications (see para. 8), Audit found that:

- (a) for 11 applications (involving 9 grantees), the auditors did not certify the grantees' compliance with the procurement requirements or the Code of Conduct (para. 2.12(b));
- (b) for 5 applications (involving 2 grantees), the auditors did not certify whether the Code of Conduct had been complied with (para. 2.12(c)); and
- (c) for 3 applications (involving 2 grantees), the auditors stated that there were exceptions in complying with the procurement requirements (e.g. the required number of quotations had not been obtained). There was, however, no evidence indicating that HAB and LCSD had taken any follow-up actions (para. 2.13).

11. ***Need to step up efforts to ensure timely submission of programme reports and audited accounts.*** Audit examined the submission of programme reports and audited accounts by grantees in the period 2014-15 to 2018-19, and found that the delay in submission of programme reports and audited accounts was generally on the decrease. However:

- (a) there were still 62% of cases of delay in respect of the preparation fund in 2018-19;
- (b) there were still 50% of cases of delay in respect of the participation fund for games sanctioned by International Olympic Committee, Olympic Council of Asia, International Paralympic Committee or Asian Paralympic Committee in 2018-19; and
- (c) the cases of delay in respect of the participation fund for other competitions (including games held at national level or for students, and single-sport competitions for team sports) had increased from 18% in 2017-18 to 40% in 2018-19 (paras. 2.15 and 2.16).

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12. *Need to implement the enhanced measures.* A grantee which failed to submit the programme report and/or audited accounts after the ultimate deadline (i.e. six months after the completion of preparation programme or the sports competition) should be liable to refund the ASDF grant, calculated as 1% of the approved grant amount for every month of further delay, until the grantee submits the programme report and audited accounts. In examining the 28 applications (see para. 8), Audit found that for 6 applications, despite that the delay in submission of programme reports and/or audited accounts was more than six months, the 1% charge had not been imposed (paras. 2.6 and 2.17).

13. *Need to review the calculation of amounts to be returned.* As a funding condition, grantees of ASDF preparation and participation funds are required to return any unspent balances to the Government after the completion of preparation programmes or sports competitions. The unspent balance is the amount of approved funding minus the total amount of eligible expenditures. An unspent balance is required to be returned after HAB's or LCSD's verification of a grantee's submitted audited accounts. Among the 28 applications examined by Audit (see para. 8), other than ASDF funding, the grantee of 1 application had self-generated income wrongly included in the calculation of return of unspent balance (paras. 2.18 to 2.20).

14. *Need to ensure timely return of unspent balances.* Audit analysed the time elapsed before returning unspent balances by grantees to the Government in the period 2014-15 to 2018-19 and found that for 6 applications, the grantees returned the unspent balances over one year after the submission of audited accounts. Audit further examined the 28 applications (see para. 8) and found that apart from 1 application where the late return could be attributable to both HAB (about 9.8 months had elapsed since receipt of audited accounts by HAB) and the grantee (about 7 months had elapsed since the date of requesting return by HAB), the late return was mainly due to the long time interval between the dates of receipt of audited accounts by HAB and the dates of issuing letters requesting return by HAB (paras. 2.21 to 2.23).

Funding for international sports events

15. *Vetting of funding applications.* International sports events include: (a) "M" Mark events (MMEs) which are events of world championships, world class level championships and intercontinental championships, and having a signature effect in Hong Kong; (b) Major Local International Events (MLIEs) which are championship

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and other events at a level equivalent to World, Intercontinental, Asian or major regional championships sanctioned and certified by the related International, Asian or Regional Federations; qualifying events for non-annual major competitions; and other international events in which the respective International Federations require Hong Kong to participate as a prerequisite for entry to world championships or equivalent; and (c) Local International Events (LIEs) which are mainly participated by Hong Kong teams (para. 3.2). Audit noted the following issues:

- (a) ***Need to follow guidelines in assessing funding applications.*** Audit examined 10 international sports events, comprising 3 MMEs, 3 MLIEs and 4 LIEs, organised in 2017-18 and 2018-19. Audit noted that in one MLIE, the application had not been properly assessed. According to HAB's guidelines on the scoring system, one of the sub-criteria of a criterion for the assessment of an MLIE is the "timeliness in submission of programme report and audited report (i.e. audited accounts) before the deadline", which is a mandatory requirement. An applicant's "failure in timely submission of the required reports in the last application will not attain any score in this criterion". In an NSA's last application in 2016-17, there was delay (one month) in submission of the programme report and the audited report. However, in the NSA's 2017-18 application, instead of not attaining any score, a score had still been awarded to the criterion (para. 3.9);
- (b) ***Scope for improvement in performance reporting.*** Audit examined the submission of programme reports and audited accounts for MMEs, MLIEs and LIEs by grantees in the period 2014-15 to 2018-19 (para. 3.14). Audit found that:
 - (i) between 2015-16 and 2018-19, the percentage of events with delay in submission of programme reports and audited accounts had either remained the same (at 75% for MMEs) or was on the increase (from 60% to 78% for MLIEs and from 6% to 10% for LIEs) (para. 3.14);
 - (ii) there were inadequacies relating to submitted programme reports and audited accounts. For example, while there were significant variances between the estimated and actual amounts of expenditure or between those of income, for MMEs, grantees were not required to report any aforementioned variances (para. 3.16); and

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- (iii) of the 10 events (see (a) above), in 3 MLIEs and 4 LIEs, of a total of 44 performance targets, 6 targets (e.g. expected number of spectators) had not been achieved and the achievements of 29 targets (e.g. expected achievement of Hong Kong team/athletes for the event) had not been reported. In all the 3 MLIEs and 4 LIEs, there was no evidence indicating that LCSD had taken any follow-up actions (para. 3.18); and
- (c) ***Scope for improvement in conducting on-site inspections.*** According to HAB records, in 2018-19, 4 MMEs, 19 MLIEs and 95 LIEs were organised by 55 NSAs and 1 sports organisation. HAB conducted inspections at all the 4 MMEs, while LCSD conducted inspections at 17 MLIEs and 49 LIEs. Audit examined the on-site inspection records of HAB and LCSD for these events (para. 3.21) and noted that:
- (i) for 2 of the 17 MLIEs and 11 of the 49 LIEs inspected by LCSD, there were no inspection reports documenting the details of inspections (para. 3.21(a));
 - (ii) LCSD had not laid down guidelines on selection of MLIEs and LIEs for on-site inspections. It was therefore not known as to the basis on which LCSD decided that no inspections would be conducted for any of the MLIEs and LIEs organised by 11 (out of 55) NSAs and 1 sports organisation (para. 3.21(b)); and
 - (iii) for the 10 events examined by Audit (see (a) above), in 1 MLIE and 1 LIE, some information (e.g. the number of spectators) was missing in the inspection reports. In addition, LCSD had not laid down guidelines on the number of on-site inspections to be conducted for events that were held for a number of days. For an MLIE held for four days, the LCSD staff had only conducted an inspection in one of the four days (para. 3.22).
16. ***Scope for improvement in returning surpluses and unspent balances by grantees.*** Grantees of MMEs, MLIEs and LIEs are required to return any surpluses (for MMEs) or unspent balances (for MLIEs and LIEs) generated from the events to the Government (para. 3.24). Audit noted the following issues:

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- (a) Audit analysed the incomes and expenditures of 4 MLIEs and 6 LIEs (these events had other incomes (e.g. sponsorships and ticket sales) in addition to ASDF grants) organised in the period 2014-15 to 2018-19 and noted that 4 MLIEs and 5 LIEs had surpluses. Despite the surpluses, contrary to the arrangement that MME grantees need to return their surpluses to the Government, the grantees of the 4 MLIEs and 5 LIEs are not required to do so (they are only required to return their unspent balances) (paras. 3.25 and 3.26);
- (b) a long time had elapsed (e.g. some 10 months) before the unspent balances of some MLIEs and LIEs organised in the period 2014-15 to 2018-19 were returned to the Government (para. 3.28); and
- (c) Audit's examination of the 4 MLIEs and 6 LIEs (see (a) above) as well as two extreme cases in the period 2014-15 to 2018-19 (i.e. 10.8 months for an MLIE and 10.1 months for an LIE) further revealed that a major reason for the long lapse of time was the long time taken by LCSD to verify the amounts of unspent balances and issue request letters to grantees (para. 3.29).

17. ***Other issues relating to international sports events.*** Audit noted that in the period 2013-14 to 2017-18, on several occasions, there was room for improvement in reporting information on international sports events to the Legislative Council (LegCo) by HAB. For example, in a paper to the LegCo Panel on Home Affairs dated May 2018, HAB stated that the number of international sports events hosted locally for the period from 1 April 2013 to 31 March 2018 was 509 with an approved amount of \$157.63 million. However, the reported figure of 509 and reported amount of \$157.63 million were actually the number of fund disbursements and the amount of funds disbursed respectively (para. 3.36).

Funding for football development

18. ***Governance of Hong Kong Football Association (HKFA).*** ASDF provides funding to HKFA for the development of local football through the implementation of football development plans, which comprised the Project Phoenix (in the period November 2011 to October 2014 (subsequently extended to March 2015)) and the Five-Year Strategic Plan (FYSP) (in the period April 2015 to March 2020) (para. 4.2). Audit noted the following issues:

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- (a) ***Need to improve attendance of individual members at meetings.*** Audit examined members' attendance at meetings of HKFA's Board, committees and sub-committees held in the football seasons 2014/15 to 2018/19 (a football season starts in July and ends in June in the ensuing year), and found that there were some members who had attended less than half of the Board/committee/sub-committee meetings (paras. 4.7 and 4.8);
 - (b) ***Scope for improving first-tier declarations of conflicts of interest.*** Audit examined HKFA records for members' declaration of conflicts of interest in the football seasons 2014/15 to 2018/19 and noted that no first-tier declarations were made by members of the Board, committees and sub-committees (para. 4.11);
 - (c) ***Need to enhance the governance of the Audit Committee.*** The requirements stipulated in the Audit Committee's terms of reference (e.g. having 3 to 5 committee members), which was endorsed by the Board in February 2014, had not been met. For example, the Committee consisted of one member (the Chairman) only from July 2015 onwards (para. 4.13); and
 - (d) ***Need to enhance the governance of the Marketing and Communications Committee.*** HKFA could not provide, for Audit's examination, most of the agendas and minutes of meetings of the Marketing and Communications Committee for the period July 2014 to March 2019. In March 2020, HKFA further informed Audit that in the football seasons 2014/15 to 2018/19, there were meetings held but the minutes, other than those for the meetings held in April, May and June 2019, could not be located (para. 4.18).
19. ***Human resource management.*** Audit examined HKFA's recruitment of staff under the Project Phoenix and FYSP as well as HKFA's staff turnovers (para. 4.23). Audit noted the following issues:
- (a) ***Need to enhance recruitment policies and procedures.*** Audit examined 10 HKFA recruitment exercises conducted in the period 2014-15 to 2018-19 and found that some applications were successful despite that they were received after the application deadlines or not sent to the designated recipient (para. 4.24);

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- (b) ***Need to improve declarations of conflicts of interest in recruitment exercises.*** In examining the 10 recruitment exercises (see (a) above), Audit found room for improvement in the declarations of conflicts of interest in recruitment exercises. For example, in 3 of the 10 recruitment exercises, the dates of declaration forms signed by 5 recruitment panel members were later than the dates of interviews (para. 4.28); and
 - (c) ***Need to address high staff turnovers.*** Audit conducted an analysis of the staff turnovers in the period 2014-15 to 2018-19. Audit found that staff turnover rates of ASDF-funded posts were on the high side (i.e. at 30% or more) in 3 years. For some departments of HKFA (e.g. the Marketing and Communications Department), the staff turnover rates were particularly high in some years (i.e. more than 60%). Audit also noted that of 17 staff who left in the period 2014-15 to 2018-19, 6 staff (35%) left for the reason of career development opportunities and 5 staff (29%) left for workload involved (paras. 4.30 and 4.31).
20. ***Attendance of spectators and self-generated incomes.*** HAB expected that HKFA should in time be able to derive income from gate receipts, sponsorship and other sources that would help it achieve steady improvements financially and in management (para. 4.35). Audit noted the following issues:
- (a) ***Need to boost attendances.*** Audit analysed the number of spectators of the matches organised by HKFA in the period 2015-16 to 2018-19 and found that the average number of spectators had decreased by 3.6% from 1,403 in 2015-16 to 1,352 in 2018-19. According to the Football Task Force (FTF), distribution of complimentary tickets can help raise the public interest in football and improve the attendances of matches. However, Audit analysis found that the proportion of spectators holding complimentary tickets to total number of spectators of HKFA matches had increased from 9% in 2015-16 to 14.6% in 2018-19. In some matches, the number of spectators holding complimentary tickets was greater than those holding sold tickets. Furthermore, the results of using complimentary tickets to improve attendances were not always satisfactory. For example, of the 1,778 complimentary tickets distributed for the Asian Football Confederation Asian Cup held in June 2017, 1,158 (65%) tickets were not used (paras. 4.36 to 4.38); and

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- (b) ***Need to generate more incomes.*** Funding from the Government and sports organisations accounted for 47% of the total incomes of HKFA in the football season 2014/15, but the percentage rose to 73% in the football season 2017/18. In addition, apart from programme and registration fee income, all other self-generated incomes were decreasing (para. 4.41).

21. ***Performance measurement and other administrative issues.*** According to FYSP funding agreement between HAB and HKFA, HKFA is required to submit half-yearly progress reports to HAB to report the achievements against performance targets and indicators (para. 4.45). Audit noted the following issues:

- (a) ***Performance targets and indicators not achieved.*** Audit examined the progress reports submitted by HKFA in the period 2015-16 to 2018-19. Audit found that in the period, the number of under-achievements against performance targets and indicators ranged from 2 to 11. In 2018-19, there were under-achievements in 9 performance targets and 3 performance indicators. The extent of individual under-achievements ranged from 1% to 50% (para. 4.46);
- (b) ***Key targets of the consultancy report not achieved.*** Audit examined the achievements against the key targets set in the consultancy report on football development issued in December 2009, and found that up to the end of September 2019, some achievements were lower than the targets and even lower than the achievements in 2009. For example, for the “National” Team Fédération Internationale de Football Association world ranking for the ladies, the position in December 2009 was 60. According to the target set in the consultancy report, the position should become 40 in 2015 and “maintain top 35” in 2020. However, up to the end of September 2019, the actual position was 77, which was lower than the position (i.e. 60) in 2009 (paras. 4.48 and 4.49);
- (c) ***Need to improve the accuracy of reporting achievements against the performance targets and indicators.*** In respect of a performance target (namely “increase sponsorship and advertising gross revenue”) reported in the half-yearly progress reports, there were discrepancies between the amounts reported in the half-yearly progress reports and the amounts provided by HKFA in August 2019. In addition, in respect of a performance indicator (namely “average attendance per HKPL (i.e. Hong Kong Premier League) match”), there were discrepancies between the

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attendances reported in the half-yearly progress reports and those published on HKFA website (paras. 4.53 and 4.54);

- (d) ***Need to observe procurement requirements.*** Audit examined 50 items of goods and services procured (with amounts ranging from \$440 to \$1 million) in the period June 2014 to September 2019 under the Project Phoenix and FYSP. Audit found that for 10 items (20%), HKFA did not obtain any quotations and there was no documentation on the justifications for not obtaining any quotations (para. 4.58); and
- (e) ***Need for HAB to release grant payments in a timely manner.*** An annual grant endorsed by FTF and approved by HAB shall be allocated to HKFA by four equal quarterly instalments payable in advance at the beginning of each quarter of the annual grant period. Audit found that, in the period 2015-16 to 2019-20, there were late disbursements (up to 163 days late) of the instalment of the annual grants. Audit further noted that in 2016-17, 2018-19 and 2019-20, the FTF meetings to endorse the annual grant applications were held after the beginning (i.e. 1 April) of the grant periods. (paras. 4.61 to 4.63).

Funding for other sports programmes and schemes

22. ***Need to closely monitor the implementation of the 5-year programme (see para. 1).*** The 5-year programme covers the period 1 January 2018 to 31 December 2022 with a committed funding of \$105 million from ASDF. The programme provides funding to the eight team sports (i.e. (a) baseball; (b) basketball; (c) handball; (d) hockey; (e) ice hockey; (f) softball; (g) volleyball; and (h) water polo) competing in the 2018 and 2022 Asian Games, and the 2021 Asian Winter Games. The programme aims at enhancing the performance of the team sports progressively and increasing their chances of attaining elite sports status in the future. For the Asian Games, the 5-year programme covers four development stages (i.e. pre-2018 and the 2018 Asian Games from 2017 to 2019, post-2018 Asian Games in 2019-20, pre-2022 Asian Games from 2020 to 2022, and the 2022 Asian Games). The performance targets set for the first development stage were that the final positions of the teams in the 2018 Asian Games should be higher than those in the 2014 Asian Games. However, Audit noted that 9 of the 12 teams that participated in the 2018 Asian Games did not achieve the performance targets (paras. 5.2, 5.3, 5.5 and 5.11).

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23. ***Scope for improvement in reporting achievements by District Football Teams (DFTs) under DFFS.*** ASDF provided and HAB continues to provide funding for DFFS (see para. 2). In the period 2014-15 to 2018-19, about \$10 million was disbursed to 18 DFTs under DFFS every year. For performance monitoring purpose, under DFFS, a DFT is required to submit to its respective DO a mid-term report and a final report in March (during DFFS funding period starting in June and ending in May in the ensuing year) and June (after DFFS funding period) respectively. In the reports, the DFT provides information on the project income and expenses, the dates of training sessions, the dates of competitions held, and the community building activities organised. The respective DO, on the other hand, is required to submit to HAB the mid-term report of DFT in April, and the final report of DFT together with a performance evaluation report in July. The performance evaluation report indicates DFT's achievements against four performance targets, use of funds, and timeliness of submission of mid-term and final reports (paras. 5.15, 5.16, 5.18 and 5.19). Audit examined the performance evaluation reports submitted by DOs to HAB in the DFFS funding periods 2014/15 to 2018/19, and noted that:

- (a) of the 18 DFTs, out of the four performance targets, 4 DFTs continuously did not achieve one or more of the targets throughout the entire period, while the other 14 (18 minus 4) DFTs did not achieve at least one of the targets in one or more years (para. 5.20(a));
- (b) notwithstanding the under-achievements mentioned in (a) above, explanations had not been provided by 10 of the 18 DFTs. While the remaining 8 DFTs had provided explanations, some "significant differences", which had not been defined by HAB, were left unexplained (para. 5.20(b)); and
- (c) there was no requirement stipulating that DFTs should report their achievements in their reports. DFTs' achievements were either reported by DFTs on their own initiative in their reports or made known to DOs upon DOs' enquiries for the purpose of assessing DFTs' achievements (para. 5.21(a)).

24. ***Need for proper control on purchases made under DFFS.*** Under DFFS, DFTs are required to submit in March and June of a DFFS funding period, information on quotations obtained, receipts for goods and services purchased, and completed reimbursement forms for claiming reimbursement of expenses. In visiting two DOs (one in Kowloon and one in the New Territories), Audit noted that in the DFFS funding periods 2014/15 to 2018/19, the two respective DFTs (of the two DOs)

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had not provided any information on quotations obtained for some purchases, e.g. for the DFT in Kowloon, 5 purchases of football team insurances and 2 purchases of goods (i.e. footballs) amounting to a total of \$37,504 and \$6,765 respectively. It was therefore uncertain whether the two DFTs had obtained any quotations for the aforesaid purchases. Furthermore, despite the missing information, there was no evidence indicating that the two DOs had taken any follow-up actions (paras. 5.24 to 5.26).

25. *Need to review the effectiveness of funding provided to HKPC&SAPD.*

Funding is provided to HKPC&SAPD to hire three staff to implement programmes to help athletes with disabilities achieve good results at the Paralympic Games and the Asian Para Games. The first funding was provided to HKPC&SAPD through ASDF in 2011-12. Since January 2019, funding had been provided through HAB's recurrent expenditure. In 2018-19, \$1,335,000 was provided to HKPC&SAPD. Audit analysed the results of the Hong Kong Paralympian teams in the Paralympic Games and the Asian Para Games (paras. 5.30, 5.32 and 5.33). Audit found that:

- (a) for the Paralympic Games, the number of medals attained by the Hong Kong Paralympian teams decreased from 12 in the 2012 Paralympic Games to 6 in the 2016 Paralympic Games (para. 5.34(a)); and
- (b) for the Asian Para Games, the ranking of Hong Kong in terms of number of medals dropped from 9 in the 2010 Asian Para Games to 10 in the 2018 Asian Para Games (para. 5.34(b)).

Governance of the Sports Commission and its committees

26. *Need to review and update Standing Orders.* SC has three underpinning committees, namely, CSC, ESC and MSEC (SC and the underpinning committees are hereinafter collectively referred to as "SC/committees" unless otherwise stated). For SC, ESC and MSEC, secretariat services are provided by HAB. For CSC, secretariat services are provided by LCSD. HAB and LCSD have issued Standing Orders for each of SC/committees governing its operation. According to the Standing Orders, regular meetings of SC may be held once every three to four months (i.e. 4 or 3 meetings a year), and regular meetings of the underpinning committees may be held every three months (i.e. 4 meetings a year). However, Audit noted that for the period 2015 to 2019, on average, each of SC/committees held only 2 meetings per year. To ensure that the functions of SC/committees are effectively carried out,

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HAB and LCSD need to review the frequency of SC/committee meetings laid down in the Standing Orders (paras. 6.4, 6.5, 6.7 and 6.9).

27. *Need to take measures to encourage attendance.* Audit examined, for the period 2015 to 2019, individual members' attendance at the meetings. Audit noted that, each year, there were members who did not attend any meetings of SC or an underpinning committee. The number of such members totalled 32 in the period. Records did not indicate that HAB and LCSD had taken actions to encourage members to attend meetings (paras. 6.13 and 6.15).

28. *Need to improve management of potential conflicts of interest.* In 2005, the Secretary for Home Affairs issued a memorandum entitled "Advisory and Statutory Bodies — Declaration of Interests" to all advisory and statutory bodies of government bureaux and departments. According to the memorandum, there are two systems to make a declaration of interests, namely one-tier reporting system and two-tier reporting system. A one-tier reporting system has been adopted for SC and its underpinning committees. According to the Standing Orders (see para. 26), if any member has any potential conflicts of personal or pecuniary interest direct or indirect in any matter under consideration by SC or an underpinning committee, the member shall declare it to SC or the underpinning committee as appropriate prior to the discussion of that item. Audit examined the minutes of meetings of SC/committees for the period 2015 to 2019, and noted occasions where members of SC did not adequately declare potential conflicts of interest. In this connection, Audit noted that according to the Standing Orders of SC and ESC, a declaration of interests by any member shall be recorded in the minutes of the meeting. However, there was no similar requirement in the Standing Orders of CSC and MSEC. Subsequently, in March 2020, LCSD informed Audit that the requirement had been included in the Standing Orders of CSC (paras. 6.18 to 6.21).

29. *Need to review the system for declaring interests.* By the memorandum of 2005 (see para. 28), bureaux and departments are reminded to review from time to time the systems for declaring interests for the advisory and statutory bodies under their purview, so as to ensure that the systems match the needs of the bodies concerned. Records did not indicate that HAB and LCSD had reviewed, from time to time, the SC/committees' system for declaring interests having regard to the memorandum of 2005 (paras. 6.23 and 6.24).

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30. ***Room for improvement in disclosure of meeting information.*** According to the Standing Orders, the notice of meeting, the agenda and the papers of a meeting shall be made available to the public by the secretary within the calendar year in which the meeting was held (i.e. via the HAB website for meetings of SC, ESC and MSEC, and via the LCSD website for meetings of CSC), unless the nature and/or contents of which are confidential. In January 2020, Audit examined the posting of information on the HAB website/LCSD website for meetings held in the period 2015 to 2019. A total of 43 meetings were held in the period, comprising 11 SC meetings, 11 CSC meetings, 11 ESC meetings and 10 MSEC meetings. Audit found that, as at 31 January 2020, notices of meetings had not been posted for all 43 (100%) meetings, and agendas had not been posted for 11 (26%) meetings. In March 2020, HAB informed Audit that the requirement on posting notices of meetings was outdated, and regarding the agendas, they have been available on the websites since February 2020. HAB and LCSD need to ensure that the Standing Orders are updated with the latest requirements, and that information on meetings of SC/committees is disclosed to the public in accordance with the Standing Orders (paras. 6.28 to 6.31).

31. ***Need to ensure that confidentiality agreements are signed and returned by members.*** Members of SC/committees are appointed by the Secretary for Home Affairs. According to the practice of HAB and LCSD, members are requested to sign an agreement upon appointment. Under the agreement, which is laid out in a standard form, members undertake to keep matters of SC/committees confidential as necessary. Audit examined the members' agreements in the period 2015 to 2019, and found that the agreements of some committee members were missing (i.e. involving one ESC member and four MSEC members). According to HAB, the members did not return the agreements (paras. 6.32 and 6.33).

Audit recommendations

32. **Audit recommendations are made in the respective sections of this Audit Report. Only the key ones are highlighted in this Executive Summary. Audit has *recommended* that the Secretary for Home Affairs should:**

Funding for Hong Kong athletes to prepare for and participate in international games

- (a) **clarify the calculation of return of unspent balances by grantees, and ensure that HAB and LCSD staff properly calculate the amounts of unspent balances to be returned (para. 2.25);**

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Funding for international sports events

- (b) require MME grantees to provide in their programme reports explanations for variance over 25% between the estimated and actual amounts of expenditure as well as between the estimated and actual amounts of income, and take follow-up actions where warranted (para. 3.31(a));
- (c) review the existing arrangements for returning surpluses of MMEs and unspent balances of MLIEs and LIEs to ascertain the need to align or modify the arrangements (para. 3.31(b));
- (d) improve the reporting of information relating to international sports events to LegCo in future (para. 3.38);

Funding for football development

- (e) urge HKFA to take effective measures to improve its governance, including:
 - (i) encouraging members of the Board, committees and sub-committees to attend meetings, especially those members who are frequently absent from the meetings (para. 4.19(a));
 - (ii) ensuring that first-tier declaration of conflicts of interest forms are sent to members of the HKFA Board, committees and sub-committees for their completion at the time of appointment and thereafter annually, and that the forms are duly completed and returned to HKFA (para. 4.19(b));
 - (iii) ensuring that the Audit Committee complies with the requirements stipulated in the terms of reference of the Committee (para. 4.19(c)); and
 - (iv) ensuring that agendas and minutes of meetings of the Marketing and Communications Committee are duly kept (para. 4.19(d));

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- (f) **urge HKFA to take effective measures to improve its human resource management, including:**

 - (i) **laying down policies and procedures for handling job applications received after the application deadlines and for dealing with applications not submitted through the proper channel as required (para. 4.33(a));**
 - (ii) **ensuring that conflicts of interest in recruitment exercises are properly and adequately declared (para. 4.33(h)); and**
 - (iii) **closely monitoring the staff turnover rates (especially for those HKFA departments with particularly high turnover rates), and making efforts to address the high turnover rates taking into account the reasons for staff leaving HKFA (para. 4.33(j));**
- (g) **urge HKFA to take effective measures to boost attendance and generate income, including:**

 - (i) **ascertaining the reasons for the decrease in the number of spectators, taking into account the audit observations on HKFA's distribution of complimentary tickets, in order to take further measures to boost the attendances (para. 4.43(a)); and**
 - (ii) **ascertaining the reasons for the general decrease in self-generated incomes, so as to step up measures to generate more such incomes (para. 4.43(b));**
- (h) **scrutinise HKFA's strategic plan to ensure that the plan adequately and effectively addresses the performance deficiencies, and closely monitor HKFA's performance to determine the way forward for football development in Hong Kong (para. 4.65(a));**
- (i) **require HKFA to resolve the discrepancies in the reporting of sponsorship and advertising gross revenue (para. 4.65(b));**

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- (j) **redetermine the types of matches to be included in the reporting of average attendance per HKPL match, and ensure that the achievement is properly reported by HKFA (para. 4.65(c));**
- (k) **urge HKFA to take effective measures to ensure that the requirements on obtaining quotations are duly observed, and in circumstances where the requirements could not be observed, the justifications for the non-compliance is documented to strengthen the control (para. 4.65(d));**
- (l) **look into the concern of HKFA on late disbursements of instalments of annual grants, and make efforts to release any future grant payments to HKFA in a timely manner (para. 4.65(e));**

Funding for other sports programmes and schemes

- (m) **closely monitor the implementation of the third development stage (i.e. pre-2022 Asian Games from 2020 to 2022) of the Five-Year Development Programme for Team Sports (para. 5.13);**
- (n) **clearly define “significant differences” between the achievements and the set performance targets of DFTs, and inform DOs about the definition so as to facilitate them to take follow-up actions where warranted (para. 5.27);**
- (o) **continue to review the effectiveness of the funding provided to HKPC&SAPD to help the Hong Kong Paralympian teams achieve good results in the Paralympic Games and the Asian Para Games, and instigate improvement measures where warranted (para. 5.37);**

Governance of the Sports Commission and its committees

- (p) **remind members of SC to declare potential conflicts of interest as required by SC Standing Orders (para. 6.25(a));**

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- (q) consider including a requirement in the Standing Orders of MSEC, whereby declaration of interests by any member shall be recorded in the minutes of meetings (para. 6.25(b));
 - (r) look into the cases in which the ESC and MSEC members did not return the signed agreements containing the confidentiality clause, and take remedial actions as necessary (para. 6.35(a)); and
 - (s) take measures to ensure that agreements are signed and returned by members of SC/committees (para. 6.35(b)).
33. Audit has also *recommended* that the Director of Leisure and Cultural Services should:

Funding for international sports events

- (a) in vetting ASDF funding applications, ensure that HAB's guidelines are followed in assessing the timeliness of submission of programme reports and audited reports by applicants (para. 3.10(a));
- (b) take measures to ensure that MLIE and LIE grantees adequately and clearly report their event achievements against performance targets, and take follow-up actions in situations where the targets are not achieved and/or the achievements are not properly reported (para. 3.32(c));
- (c) take measures to ensure that all details of on-site inspections conducted for MLIEs and LIEs are documented (para. 3.32(d));
- (d) set guidelines on the selection of MLIEs and LIEs for on-site inspections (para. 3.32(e));
- (e) issue guidelines on the number of on-site inspections to be conducted for MLIEs and LIEs that are held for a number of days (para. 3.32(f)); and

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- (f) identify scope for expediting the verification of amounts of unspent balances to be returned by MLIE and LIE grantees and the issue of letters to request them to return the unspent balances (para. 3.32(h)).

34. Audit has also *recommend* that the Secretary for Home Affairs and the Director of Leisure and Cultural Services should:

Funding for Hong Kong athletes to prepare for and participate in international games

- (a) take measures to ensure that applicants for ASDF preparation and participation funds set performance targets in their funding applications, and that grantees of such funds report all achievements against performance targets in their programme reports (para. 2.26(a));
- (b) in circumstances where grantees of ASDF preparation and participation funds have failed to achieve performance targets, instigate follow-up actions with the grantees (para. 2.26(b));
- (c) require grantees to provide explanations for variances over 25% between the estimated and actual amounts of expenditure as well as between those of income in the programme reports (para. 2.26(c));
- (d) issue guidelines to grantees to ensure that their auditors certify their compliance with the procurement requirements and the Code of Conduct, and in cases where non-compliance is reported in the audited accounts, instigate follow-up actions with the grantees (para. 2.26(d));
- (e) step up efforts to reduce the delay in submission of programme reports and audited accounts by grantees (para. 2.26(e));
- (f) impose the charge, stipulated under HAB's enhanced measures, for delay in submission of programme reports and audited accounts by grantees (para. 2.26(f));

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- (g) ascertain the reasons for the late return of unspent balances by grantees and take measures to ensure that such balances are returned in a timely manner (para. 2.26(g));

Funding for international sports events

- (h) step up efforts in ensuring timely submission of programme reports and audited accounts by MME, MLIE and LIE grantees, including taking measures against those grantees that are frequently late in submitting their reports and accounts (para. 3.33(a));

Governance of the Sports Commission and its committees

- (i) review the frequency of SC/committee meetings laid down in the Standing Orders and update the Standing Orders as appropriate (para. 6.16(a));
- (j) step up efforts to encourage SC/committee members to attend meetings (para. 6.16(b));
- (k) having regard to the memorandum of 2005, periodically review the system for declaring interests for SC/committees (para. 6.26);
- (l) ensure that the Standing Orders are updated with the latest requirements (para. 6.34(a)); and
- (m) ensure that information on meetings of SC/committees is disclosed to the public in accordance with the Standing Orders (para. 6.34(b)).

35. Audit has *recommended* that the Secretary for Home Affairs should, acting through DOs:

Funding for other sports programmes and schemes

- (a) require DFTs to report their achievements against the performance targets in their reports submitted to DOs and provide DOs with

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supporting documents for the reported achievements, and conduct verifications accordingly (para. 5.28(a) and (b));

- (b) **require DFTs to provide explanations for any “significant differences” to DOs and ensure that necessary follow-up actions are taken by DOs on such differences so as to help DFTs achieve their performance targets (para. 5.28(c)); and**
- (c) **take measures to ensure that DFTs provide DOs with information on quotations obtained in making purchases, and that DOs take follow-up actions where warranted (para. 5.28(d)).**

Response from the Government

36. The Secretary for Home Affairs and the Director of Leisure and Cultural Services accept the audit recommendations.

CHAPTER 2

**Home Affairs Bureau
Sports Federation & Olympic Committee of
Hong Kong, China**

**Sports Federation & Olympic Committee of
Hong Kong, China**

**Audit Commission
Hong Kong
2 April 2020**

This audit review was carried out under a set of guidelines tabled in the Provisional Legislative Council by the Chairman of the Public Accounts Committee on 11 February 1998. The guidelines were agreed between the Public Accounts Committee and the Director of Audit and accepted by the Government of the Hong Kong Special Administrative Region.

Report No. 74 of the Director of Audit contains 8 Chapters which are available on our website at <https://www.aud.gov.hk>

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SPORTS FEDERATION & OLYMPIC COMMITTEE OF HONG KONG, CHINA

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SPORTS FEDERATION & OLYMPIC COMMITTEE OF HONG KONG, CHINA

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1. The Sports Federation & Olympic Committee of Hong Kong, China (SF&OC) is recognised by the International Olympic Committee (IOC) as the National Olympic Committee (NOC) of Hong Kong, China. As an NOC, SF&OC is dedicated to the development and promotion of sports in accordance with the Olympic Charter, which serves as the statutes for IOC. SF&OC received funding from the Government through the Arts and Sport Development Fund (Sports Portion) (ASDF), the Home Affairs Bureau (HAB)'s funding and the Leisure and Cultural Services Department (LCSD)'s recurrent subvention. In 2018-19, the total amount of government funding provided to SF&OC was \$38.9 million. According to HAB, HAB will increase its recurrent subvention to SF&OC from \$20 million in 2019-20 to \$40.6 million in 2020-21.

2. SF&OC was established in November 1950 as a non-profit-making non-governmental organisation and registered under the Societies Ordinance (Cap. 151). In March 2017, SF&OC was incorporated under the Companies Ordinance (Cap. 622) as a company limited by guarantee. More details about SF&OC are shown below:

- (a) SF&OC has three affiliated companies, namely:
 - (i) the Management Company of Olympic House Limited (MCOHL), which has been entrusted by the Government to manage a government property (i.e. the Olympic House) since 2004;
 - (ii) the SF&OC Sports Legacy Company Limited, which promotes sports and blends character and career development for students in underprivileged schools and retired/retiring athlete coaches; and
 - (iii) the Hong Kong Olympic Fans Club Limited, which provides a platform for the public to interact and contribute to the Olympic Movement and for the promotion of the value of Olympism;

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- (b) as at 31 December 2019, SF&OC had 82 members comprising 79 National Sports Associations (NSAs) and 3 individual ordinary members;
 - (c) SF&OC is governed by a Board of Officers (the Board), which consists of 15 Officers. The Board is supported by 29 Committees/Sub-Committees/Panels/Working Groups (collectively referred to as committees). The committees assist in matters such as strategic management, finance and investment, administration and personnel affairs, membership affairs and appeals, and public relations and corporate communication; and
 - (d) day-to-day operations of SF&OC and MCOHL (see (a)(i) above) are under the direct management of the Executive Director, SF&OC. SF&OC comprises:
 - (i) the SF&OC Secretariat, which is mainly responsible for handling corporate matters of SF&OC;
 - (ii) the Office of the Hong Kong Athletes Career and Education Programme (HKACEP), which is mainly responsible for providing post-athletic career, education and life skills support for athletes; and
 - (iii) the Office of the Hong Kong Anti-Doping Committee (HKADC), which is mainly responsible for the planning and implementation of anti-doping programmes.
3. HAB provides recurrent subventions to SF&OC and MCOHL. HAB had also, from time to time, provided one-off allocations to SF&OC and MCOHL. In 2018-19, the HAB funding provided to SF&OC amounted to \$15.8 million and that provided to MCOHL amounted to \$7.7 million. The Audit Commission (Audit) has recently conducted a review of SF&OC, including operational issues concerning MCOHL.

Operation of Sports Federation & Olympic Committee of Hong Kong, China

4. *Selection of athletes for participating in international games.* SF&OC, as NOC of Hong Kong, China, has the exclusive authority for the representation of the region in international games. Nominations of athletes for inclusion in the Hong Kong, China Delegation are submitted by NSAs to SF&OC's International Multi-Sports Games Selection Committee (Selection Committee) for selection (para. 2.3). Audit noted the following issues:

- (a) *Need to enhance transparency in selecting athletes to participate in international games.* In December 2011, the “Best Practice Reference for Governance of National Sports Associations — Towards Excellence in Sports Professional Development” (BPR) was drawn up by the Independent Commission Against Corruption in consultation with HAB, LCSD and some NSAs. Under BPR, a set of best practices is provided to enhance the transparency in the selection of athletes to participate in sports games. Audit examined the extent to which SF&OC had implemented BPR best practices on the transparency in selecting athletes for participating in international games. Audit found that, up to 29 February 2020, some of the best practices were yet to be implemented. Moreover, Audit found that in a case in 2018, there is scope for enhancing the transparency and accountability in selecting athletes to participate in an international game (paras. 2.4, 2.5, 2.7 and 2.9); and
- (b) *Need to enhance impartiality in the appeal mechanism.* If an NSA is not satisfied with the decision of SF&OC's Selection Committee, it can appeal to SF&OC's International Multi-Sports Games Appeal Panel for a final decision. Audit research on the appeal mechanisms of Australia, Canada, Japan, Singapore and the United States found that in some of these overseas countries, the public could seek independent advice on sports-related disputes from independent professionals, and appeals are handled by independent bodies (paras. 2.10 and 2.11).

5. *Handling of membership affairs.* SF&OC's NSA members (see para. 2(b) above) should comply with the requirements of the Olympic Charter (see para. 1 above), the Code of Ethics of IOC, and SF&OC's Articles of Association. If an NSA member has infringed the requirements, SF&OC has the power to cancel or suspend its membership. Audit noted that there is no mechanism in place to ensure NSA

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members' compliance with the requirements. Such a mechanism may include, for example, completing annual self-assessment forms and submitting them to SF&OC for evaluation, and conducting sample checks on NSA members' compliance with the requirements (paras. 2.18 and 2.19).

6. ***Management of HKACEP.*** HKACEP aims to deliver three core provisions for elite athletes in Hong Kong, namely Career, Education and Life Skills. These provisions are to enable elite athletes to increase their competitiveness in global employment markets (para. 2.22). Audit noted the following issues:

- (a) ***Need to instigate remedial measures for the slow progress of some English course participants.*** Under HKACEP, an English online course is provided for athletes to enhance their level of English. In 2018-19, there were 124 course participants. Audit analysed the progress made by the 124 participants and found that as at 31 March 2019:
 - (i) 69 (56%) participants had joined the course for more than four years; and
 - (ii) among these 69 participants, 40 (58%) had failed to advance at least one grade level after joining the course (para. 2.24); and
- (b) ***Need to monitor the claiming of scholarships for athletes.*** Under HKACEP, scholarships are provided on a reimbursement basis to retiring or retired athletes for pursuing better qualifications. Audit analysed athletes' claiming of HKACEP scholarships for the period 2014-15 to 2018-19 and found that, as at 31 December 2019 (paras. 2.27, 2.29 and 2.30):
 - (i) 11 scholarships, which had been approved more than 2.5 years ago, had not been claimed by the 11 athletes concerned; and
 - (ii) 1 athlete had only partially claimed the scholarship approved in 2014-15 (i.e. of the scholarship which amounted to \$144,000, \$33,600 and \$25,200 were claimed in September 2016 and April 2017 respectively). In August 2016, the athlete applied for an extension of his study. Up to 31 December 2019, there was no documentation indicating that his extension had been approved, nor

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was there evidence indicating that SF&OC had taken actions to follow up the progress of study of the athlete (para. 2.30).

7. ***Conduct of doping tests.*** For the Office of HKADC to conduct doping tests, athletes are required to submit information relating to their whereabouts on a quarterly basis and as and when required. Doping control officers (DCOs) are engaged to collect samples from athletes for doping tests. Audit examined the doping tests conducted by the Office of HKADC in the period 2014-15 to 2018-19, and found that owing to the fact that some athletes could not be located, there were unsuccessful attempts to conduct the tests. Of the 69 unsuccessful attempts in 2018-19, Audit examined 10 unsuccessful attempts (related to six athletes) (paras. 2.36 to 2.38). Audit noted the following issues:

- (a) of the six athletes, only four had been sent e-mails notifying them about the unsuccessful attempts and requesting them to provide accurate information on their whereabouts (para. 2.38(a));
- (b) two of the six athletes had subsequently updated their whereabouts to the Office of HKADC. However, as the updated whereabouts had not been provided to DCOs, doping tests had not been conducted for the two athletes (para. 2.38(b));
- (c) there were no laid-down requirements on the number of attempts to be made to locate an athlete. The number of attempts made for the six athletes varied (para. 2.38(c)); and
- (d) contrary to the anti-doping requirement, all the six athletes had not been asked at any point in time to provide explanations on why they could not be located (para. 2.38(d)).

8. ***Management of the Olympic House.*** The Olympic House, which is managed by MCOHL, comprises a total building area of 7,800 square metres. MCOHL provides office spaces and ancillary facilities (e.g. meeting facilities) in the Olympic House to SF&OC and its affiliated companies, NSAs and sports-related organisations. According to the tenancy agreements signed between MCOHL and its tenants, MCOHL has the right to allocate office spaces to them based on the numbers of their staff (paras. 2.41 and 2.42). Audit noted the following issues:

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- (a) *Need to sort out the long-term requirement for office spaces.* In 2011, SF&OC had started to discuss with the Government about the requirement for office spaces in the Olympic House in the long term. According to SF&OC, over-crowding of NSA staff in the Olympic House was a long-lasting issue. SF&OC subsequently proposed that the Olympic House could be redeveloped to meet the needs of NSAs. Up to early January 2020:
 - (i) according to the 2018-19 Budget, the Government would conduct a technical feasibility study on the redevelopment of the Olympic House; and
 - (ii) according to HAB, it was exploring the feasibility of temporarily relocating MCOHL and its existing tenants to other vacant premises.

HAB needs to, in collaboration with SF&OC, map out the way forward for the Olympic House, and devise a timetable to take forward matters arising as appropriate (paras. 2.43 to 2.45); and

- (b) *Need to devise measures to address the problem of over-crowding in the Olympic House.*
 - (i) *Need to review allocation of office spaces to NSAs.* In the period 2014-15 to 2018-19, MCOHL received 3 applications from NSAs for office spaces in the Olympic House, and 7 applications from NSAs for reallocation of office spaces (i.e. for more office spaces). However, due to full occupancy of office spaces in the Olympic House, the NSAs' requests had not been entertained. Audit analysed the gross floor areas and numbers of staff of NSAs located in the Olympic House in 2018-19, and found that there were large variations in the numbers of staff of some NSAs occupying office spaces of the same gross floor area (e.g. for 3 NSAs each of which had been allocated an office space of 130 square feet, the numbers of staff occupying ranged from 1 to 6). Moreover, there were, in general, large variations in the average gross floor area per staff; and
 - (ii) *Need to improve the use of meeting venues.* The meeting venues available at the Olympic House comprise a lecture theatre, a board

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room and 7 meeting rooms. The venues are open up to the local sports sector and the public at hourly charges. SF&OC and its affiliated companies, and all NSAs can use the 7 meeting rooms free of charge. Audit examined the utilisation of the meeting venues in the period 2014-15 to 2018-19 and found that for the lecture theatre, the usage rate was between 26% and 32%; for the board room, the usage rate decreased from 14% in 2014-15 to 9% in 2018-19; and for the meeting room, the usage rate was between 41% and 54%. SF&OC needs to explore the feasibility of converting some meeting rooms into office spaces, and to step up its efforts in promoting the availability of the lecture theatre and the board room for public hiring (paras. 2.46, 2.47 and 2.49 to 2.51).

9. ***Procurement issues.*** SF&OC has laid down the requirements for procurement purpose. Audit examined the procurement records of SF&OC and MCOHL in the period 2016-17 to 2018-19, and found that there was scope for improvement in 47 procurements of goods or services with a total amount of about \$6.6 million (paras. 2.56 and 2.58). Audit noted the following issues in the 47 procurements (para. 2.59):

- (a) in 20 procurements, only a single quotation had been obtained as, according to SF&OC, the suppliers were sole suppliers or sole agents. Audit noted that this was not always the case (e.g. in a procurement of a portable speaker). In Audit's view, there were other compatible brands available in the market (para. 2.59(a));
- (b) in 24 procurements, the procurements were in fact reimbursements of expenses (e.g. reimbursements of transportation costs to NSAs). However, SF&OC had not laid down guidelines on reimbursements of expenses (para. 2.59(b));
- (c) in 2 procurements (where tendering was required according to laid-down requirements), tendering had not been conducted. As a matter of propriety, approval should have been sought from the relevant authority for not conducting tendering. Furthermore, in these 2 procurements (for air tickets), quotations could have been obtained to ensure the best value for money (para. 2.59(c)); and

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- (d) in 1 procurement, only two instead of the required three written quotations had been obtained. Furthermore, the procurement which was approved by two elected officers, should have been approved by the President of SF&OC via an elected officer as required (para. 2.59(d)).

Government funding and monitoring

10. *Provision of subventions by HAB.* Audit noted the following issues:

- (a) *Need to review subvented programmes with persistent operating deficits.*
It was stated in Financial Circular No. 9/2004 “Guidelines on the Management and Control of Government Funding for Subvented Organisations” that in examining an organisation’s budget, the Controlling Officer should examine whether the deficit budget (if any) is justified and whether the organisation is able to manage the deficit with its reserve. Audit examined the financial positions of programmes of SF&OC and MCOHL subvented by HAB in the period 2014-15 to 2018-19. Audit noted that:
 - (i) throughout the period 2014-15 to 2018-19, the SF&OC Secretariat had operating deficits. The deficits had increased from \$33,000 in 2014-15 to \$588,000 in 2018-19;
 - (ii) in 2015-16 and 2016-17, the Office of HKACEP, the Office of HKADC and MCOHL also had operating deficits; and
 - (iii) in 2017-18, the Office of HKACEP and the Office of HKADC had drawn on a one-off allocation of \$9 million provided by HAB for each of them to cover programme expenses. In 2017-18, MCOHL had also drawn on a one-off allocation of \$9 million provided by HAB for MCOHL’s continuous operation. In 2017-18, therefore, the Office of HKACEP, the Office of HKADC and MCOHL had operating surpluses. Nevertheless, in 2018-19, only MCOHL had a surplus, while the Office of HKACEP and the Office of HKADC had incurred deficits.

Having regard to SF&OC’s financial situation in recent years, the Government has decided to substantially increase the recurrent subvention for SF&OC from 2020-21 onwards (paras. 3.2 and 3.4 to 3.6);

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- (b) ***Need to disburse recurrent subventions on a timely basis.*** Recurrent subventions are disbursed by HAB to SF&OC and MCOHL through four equal quarterly payments. Audit examined the disbursements to SF&OC in the period 2016-17 to 2018-19 and found that the recurrent subventions were not always disbursed on a timely basis. The delays in disbursement ranged from 7 to 104 days. According to SF&OC, long delays in and irregular intervals of receiving disbursements from HAB had caused disruptions to the cashflow of SF&OC and had hence resulted in operational difficulties. With respect to the disbursements to MCOHL, Audit noted that the dates of disbursement had not been stipulated in the funding agreements signed between HAB and MCOHL (paras. 3.7 and 3.8);
- (c) ***Need to ensure no cross-subsidisation between subvented programmes and self-financing activities.*** According to Financial Circular No. 9/2004 (see (a) above), organisations should ensure that there is no cross-subsidisation of self-financing activities by subvented programmes in money or in kind. Other than MCOHL, SF&OC has two affiliated companies (see para. 2(a) above). The two companies are operated on a self-financing basis. Audit noted that:
- (i) one of the two companies occupied an office space of 305 square feet in the Olympic House. Although the company was operating on a self-financing basis, MCOHL only charged the company a monthly management fee at subvented rate. In Audit's view, the company should have been charged the non-subvented rate. In the period 2015-16 to 2018-19, the management fee undercharged was \$345,880; and
 - (ii) for the two companies, over the years, there was no apportionment of office overheads (e.g. salaries of managerial staff) between the two companies and subvented programmes (paras. 3.10 and 3.11); and
- (d) ***Need to update the list of subvented organisations.*** According to Financial Circular No. 9/2004 (see (a) above), the Directors of Bureaux are required to notify the Financial Services and the Treasury Bureau of additions to/deletions from the list of organisations receiving recurrent funding from the Government. Audit noted that MCOHL had not been included in the list (paras. 3.13 and 3.14).

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11. ***Monitoring by HAB.*** Audit noted the following issues:
- (a) ***Need to ensure timely submission of reports.*** According to subvention agreements, SF&OC undertakes to submit to HAB quarterly reports and annual audited accounts, and MCOHL undertakes to submit to HAB quarterly statements of management accounts, unaudited accounts, audited accounts and reports on the achievement of performance indicators. Audit examined the submission of accounts and reports by SF&OC and MCOHL in the period 2014-15 to 2018-19 and found that:
 - (i) MCOHL was frequently not punctual in submitting accounts (delays ranging from 5 to 31 days); and
 - (ii) in the period 2014-15 to 2017-18, MCOHL did not submit any reports on its achievement of performance indicators to HAB. Despite the non-submission, HAB had not taken any follow-up actions to demand the submission of the reports (paras. 3.19, 3.20 and 3.22);
 - (b) ***Need to monitor achievements of performance indicators.*** Audit examined the reports submitted by SF&OC and MCOHL to HAB in the period 2014-15 to 2018-19. Audit found that the Office of HKADC and MCOHL had failed to achieve some of the stipulated performance indicators (i.e. the Office of HKADC failed to achieve one performance indicator in each year during the period, and MCOHL failed to achieve one performance indicator in 2018-19). Both SF&OC and MCOHL had not provided any explanations for not achieving the performance indicators. There was also no evidence indicating that HAB had taken any follow-up actions (para. 3.24);
 - (c) ***Need to improve the reporting of achievements.*** In examining the achievements against performance indicators reported by SF&OC and MCOHL in 2018-19, Audit found that there were differences between the reported achievements and the achievements ascertained by Audit (e.g. for the performance indicator “conducting anti-doping tests”, the reported achievement was 560 tests, which included unsuccessful attempts for conducting anti-doping tests. The achievement ascertained by Audit was only 492 tests) (para. 3.26);

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- (d) ***Need to disclose staff remuneration.*** Under the subvention agreement, MCOHL is required to make public disclosure of the remuneration of staff of the top three tiers of MCOHL in its annual report. Audit examined the annual reports submitted by MCOHL to HAB in the period 2014-15 to 2018-19 and found that the remuneration had not been disclosed. There was no evidence indicating that HAB had taken any follow-up actions on the non-disclosure. Audit found that, in 2018-19, the remuneration amounted to \$3.25 million (paras. 3.28 to 3.30); and
- (e) ***Scope for improvement in implementing the best practices in BPR.*** The issue of BPR, according to HAB, is also a specific measure for SF&OC to enhance its governance (see para. 4(a) above). Audit examined the extent to which SF&OC had implemented the best practices as laid down in BPR. Audit found that, up to 29 February 2020, 13 of the 73 best practices were pending implementation by SF&OC (i.e. 9 best practices on “board governance”, 1 best practice on “integrity management”, and 3 best practices on “administration of membership”) (para. 3.34).

Governance issues

12. ***Management of meetings and attendance.*** SF&OC is governed by the Board, which is supported by 29 committees. Each committee has dedicated functions (para. 4.2). Audit noted the following issues:

- (a) ***Need to review the frequency of committee meetings.*** According to SF&OC’s Articles of Association and its By-laws, for committees, meetings shall take place as and when required unless otherwise specified. In this regard, 7 committees have laid down their estimated frequency of meetings. In the period 30 March 2017 (date of incorporation of SF&OC) to 31 December 2019, SF&OC held a total of 60 meetings of the Board/committees. Audit examined the meetings held and noted that:
 - (i) for the 7 committees which had laid down their estimated frequency of meetings, in 6 committees, the numbers of meetings held were less than the estimated numbers. Of these 6 committees, 3 did not hold any meetings; and

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- (ii) for the other 22 committees (i.e. 29 minus 7) which had not laid down their frequency of meetings, according to SF&OC requirements, meetings shall take place as and when required. However, Audit noted that in the period, no meetings were held for 11 of the 22 committees (paras. 4.3 to 4.5);
 - (b) ***Room for improving attendance at meetings.*** For the Board and the 15 committees which held meetings in the period 30 March 2017 to 31 December 2019, Audit noted a decrease in members' attendance at meetings of the Board and 2 committees. For the Board, the attendance rate decreased from 83% in 2017 to 76% in 2019. For the 2 committees, the attendance rates decreased from 91% in 2017 to 73% in 2019, and from 100% in 2018 to 75% in 2019 respectively (para. 4.9);
 - (c) ***Need to take measures to encourage attendance.*** For the 15 committees which held meetings in the period 30 March 2017 to 31 December 2019, Audit noted that, each year, there were members who did not attend any meetings of the committees. The number of such members totalled 61, which was not conducive to the effective functioning of the Board/committees (paras. 4.12 and 4.13); and
 - (d) ***Need to regularise informal meetings.*** Audit examined, for the period 30 March 2017 to 31 December 2019, records of meetings of the Board and 3 committees. Audit found one case where the agenda and minutes had not been prepared for the meeting of a committee. Upon enquiry, SF&OC informed Audit that this was because the meeting was only an informal one. However, it was not entirely clear whether or not the meeting was informal. In particular, matters (e.g. working direction) were considered at the meeting and the Board was informed that the meeting in question was the first meeting of the committee concerned (para. 4.15).
13. ***Management of potential conflicts of interest.*** SF&OC has laid down requirements on the management of potential conflicts of interest (para. 4.19). Audit noted the following issues:
- (a) ***Need to expedite implementation of an enhancement practice.*** According to SF&OC, to enhance corporate governance, a "declaration of interest form" has been introduced since January 2013. The use of declaration forms (i.e. the enhancement practice) will be implemented gradually at

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committees which have power over selection (e.g. of athletes to participate in international multi-sports games) and financial matters. Audit noted that, as at the end of January 2020 (7 years had elapsed since the introduction of the enhancement practice), only 5 of the 29 committees had implemented the enhancement practice (paras. 4.20 and 4.21);

- (b) ***Room for improvement in implementing new measures.*** Since 2016, at the time of appointment of Officers of the Board, the appointees had been required to declare their interests, and sign the “Conflict of interest disclosure and confidentiality statement”. By the statement, the appointees undertook to disclose any potential or actual conflicts of interest, and to keep matters of the SF&OC confidential as necessary. The new measures had been progressively adopted among committees. As at the end of January 2020, of the 29 committees, only 3 had adopted the new measures (paras. 4.24 and 4.25); and
- (c) ***Need to record rulings and related deliberations.*** The examination of records of meetings of the Board and the 3 committees (see para. 12(d) above) also revealed that, in the period 30 March 2017 to 31 December 2019, interests were declared in 8 meetings. In 4 committee meetings, rulings on the declared interests as well as the deliberations related to the rulings were not documented, contrary to SF&OC requirements (para. 4.28).

Audit recommendations

14. **Audit recommendations are made in the respective sections of this Audit Report. Only the key ones are highlighted in this Executive Summary. Audit has *recommended* that the Executive Director, SF&OC should:**

Operation of SF&OC

- (a) **continue to make efforts to implement the best practices relating to the transparency in athletes selection as set out in BPR (para. 2.13(a));**
- (b) **more clearly publish the criteria for selecting athletes to participate in international games and properly document the justifications for selecting athletes (para. 2.13(b) and (c));**

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- (c) **explore the merit of establishing in Hong Kong similar appeal mechanisms as adopted in some advanced overseas countries and establishing a mechanism to gauge NSA members' compliance with the requirements of the Olympic Charter, the Code of Ethics of IOC, and SF&OC's Articles of Association (paras. 2.13(d) and 2.20);**
- (d) **closely monitor the slow progress of some English course participants and the progress of studies of athletes with approved HKACEP scholarships and their claiming of scholarships (para. 2.32(a) and (b));**
- (e) **ensure that initial notification letters/e-mails are always sent to athletes who have provided inaccurate whereabouts and could not be located for doping tests, updated whereabouts of athletes are provided to DCOs, and athletes are requested to provide explanations on why they could not be located (para. 2.39(a), (b) and (d));**
- (f) **lay down internal guidelines on the number of attempts to be made to locate an athlete for a doping test and step up efforts to locate athletes for doping tests (para. 2.39(c) and (e));**
- (g) **in consultation with HAB, review the areas of offices spaces in the Olympic House allocated to NSAs and reallocate as appropriate, consider standardising NSA staff's office space entitlement and explore the feasibility of converting some meeting rooms into office spaces (para. 2.53(a));**
- (h) **step up efforts in promoting the availability of the lecture theatre and the board room for public hiring (para. 2.53(b));**
- (i) **instead of restricting a particular brand, consider procuring other brands of products or services of similar qualities (para. 2.60(a));**
- (j) **lay down guidelines for reimbursements of expenses, and ensure that SF&OC procurement requirements are always followed (para. 2.60(b) and (c));**

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- (k) in compelling circumstances where tendering is not conducted as required, ensure that approval is sought from the relevant authority and quotations are obtained (para. 2.60(d));

Government funding and monitoring

- (l) in consultation with HAB, rectify the inadequacies relating to the charging of management fee and the non-apportionment of office overheads between the affiliated companies and subvented programmes, and ensure no cross-subsidisation between subvented programmes and self-financing activities in future (para. 3.16(a) and (b));
- (m) ensure that all the required accounts and reports of MCOHL are submitted in accordance with the time schedules agreed with HAB and improve the reporting of achievements of performance indicators to HAB (para. 3.37(a) and (b));
- (n) make public disclosure of the remuneration of staff of the top three tiers of MCOHL (para. 3.37(c));
- (o) make further efforts to implement the best practices laid down in BPR (para. 3.37(d));

Governance issues

- (p) review the frequency of meetings of individual committees, take measures to improve attendance at meetings of the Board/committees and review the need for regularising any practices of holding informal meetings for the Board/committees (para. 4.17(a), (c) and (e));
- (q) consider extending the enhancement practice on declaration of interests to cover the Board, and expedite the implementation at individual committees (para. 4.30(a));
- (r) expedite the adoption of the new measures to further facilitate declaring interests among committees (para. 4.30(b)); and

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- (s) ensure that committees document in minutes the rulings of interests declared at meetings as well as the deliberations related to the rulings (para. 4.30(d)).

15. Audit has *recommended* that the Secretary for Home Affairs should:

Operation of SF&OC

- (a) encourage SF&OC to implement the best practices set out in BPR relating to the transparency in athlete selection (para. 2.14(a));
- (b) in collaboration with SF&OC, map out the way forward for the Olympic House (para. 2.52(a));

Government funding and monitoring

- (c) continue to closely monitor the financial positions of SF&OC and MCOHL (para. 3.15(a));
- (d) ensure that recurrent subventions are disbursed to SF&OC on a timely basis and set scheduled dates of disbursement for MCOHL (para. 3.15(b) and (c));
- (e) ensure that the Financial Services and the Treasury Bureau is consulted for inclusion of MCOHL in the list of organisations receiving recurrent funding from the Government, and follow up accordingly (para. 3.15(d));
- (f) ensure that follow-up action is taken to consider appropriate extension of the deadline for submission of management accounts by MCOHL, and monitor the submission of accounts and reports by MCOHL (para. 3.36(a) and (b));
- (g) require SF&OC and MCOHL to provide explanations for any under-achievements of performance indicators (para. 3.36(c));

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- (h) ensure that MCOHL makes public disclosure of the remuneration of staff of the top three tiers of MCOHL (para. 3.36(d)); and
- (i) encourage SF&OC to adopt the best practices laid down in BPR (para. 3.36(f)).

Response from the Government and SF&OC

16. The Secretary for Home Affairs and SF&OC agree with the audit recommendations.

PART 1: INTRODUCTION

1.1 This PART describes the background to the audit and outlines the audit objectives and scope.

Background

1.2 The Home Affairs Bureau (HAB) covers a wide spectrum of policy areas, including civic education, culture and arts, district and community relations, sports and recreation, and youth policy. According to HAB, insofar as sports are concerned, participation in sports contributes significantly to sound physical and mental health, and provides a basis for social interaction and a sense of belonging to the community. The Government attaches great importance to sports development, with the objectives to:

- (a) promote sports in the community;
- (b) support elite sports development; and
- (c) promote Hong Kong as a centre for major sports events.

1.3 According to HAB, to support the long-term development of sports and achieve the aforesaid objectives (see para. 1.2), the Government's expenditure on sports development increased by 28% from \$3,948 million in 2014-15 to \$5,054 million in 2018-19. Table 1 shows the funding for sports development in 2018-19.

Table 1

**Funding for sports development
(2018-19)**

Funding authority	Source and nature of funding	2018-19 expenditure (\$ million)	Percentage
Leisure and Cultural Services Department (LCSD) (Note 1)	<p>(a) Through LCSD's expenditure to establish and operate sports and recreation facilities (e.g. indoor sports centres, tennis courts and swimming pools) for the public, and to promote sports development (Note 2)</p> <p>(b) Through LCSD's recurrent expenditure to organise a wide variety of sports and recreation programmes for the public (Note 3), and through LCSD's recurrent subvention under its recreation and sports funding for the Sports Subvention Scheme (Note 4) to the Sports Federation & Olympic Committee of Hong Kong, China (SF&OC — Note 5) and National Sports Associations (NSAs — Note 6) for organising sports training programmes, squad training, development schemes, overseas and local international events, etc.</p>	4,169	82.5%
HAB	(c) Through the Elite Athletes Development Fund administered by HAB, to the Hong Kong Sports Institute Limited (HKSI) for supporting the development of elite sports and elite athletes (Note 7)	596	11.8%

Table 1 (Cont'd)

Funding authority	Source and nature of funding	2018-19 expenditure (\$ million)	Percentage
	(d) Through four sports-related funds of the Sir David Trench Fund for Recreation (Note 8) administered by HAB, to SF&OC, NSAs, sports organisations (e.g. the Sha Tin District Sports Association Limited and the North District Archery Club) and athletes for sports development	115	2.3%
	(e) Through HAB's recurrent expenditure to sports organisations and schools (primary and secondary schools) to carry out district and school sports schemes, and with effect from January 2019, to the Hong Kong Paralympic Committee & Sports Association for the Physically Disabled (an NSA — Note 9) for implementing programmes to help athletes with disabilities achieve good results at the Paralympic Games and the Asian Para Games	33	0.6%

Table 1 (Cont'd)

Funding authority	Source and nature of funding	2018-19 expenditure (\$ million)	Percentage
	(f) Through HAB's funding to SF&OC (including its affiliated company) for its operational needs (i.e. financing SF&OC's personnel, office and programme expenses)	24	0.5%
	(g) Others (e.g. HAB's departmental expenses, personal emoluments, and consultancy studies)	117	2.3%
Total		5,054	100.0%

Source: HAB records

Note 1: HAB is the policy bureau of LCSD, which provides leisure and cultural services (including sports) to the public.

Note 2: In March 2004 and October 2004, the Audit Commission (Audit) completed reviews entitled "Provision of aquatic recreational and sports facilities" (Chapter 7 of the Director of Audit's Report No. 42) and "Provision and management of indoor recreational and sports facilities" (Chapter 8 of the Director of Audit's Report No. 43) respectively.

Note 3: In October 2008, Audit completed a review entitled "Provision of recreation and sports services" (Chapter 10 of the Director of Audit's Report No. 51).

Note 4: In October 2009, Audit completed a review entitled "Administration of the Sports Subvention Scheme" (Chapter 1 of the Director of Audit's Report No. 53).

Note 5: SF&OC is recognised by the International Olympic Committee (IOC) as the National Olympic Committee (NOC) of Hong Kong, China. IOC is a not-for-profit independent international organisation. In addition to establishing and administering the Olympic rules, IOC selects the host country of the Olympic Games every four years, accepts or rejects new sports and events on the Olympic programme and oversees the efforts of various other organisations (e.g. NOCs and the Olympic Organising Committee for each host city) on the development and promotion of sports. As at 29 February 2020, there were 206 NOCs worldwide.

Table 1 (Cont'd)

Note 6: NSAs are the local governing bodies for various types of sports (e.g. Hong Kong Badminton Association Limited; The Cycling Association of Hong Kong, China Limited; and The Karatedo Federation of Hong Kong, China Limited). Their main objectives are to promote and develop sports in Hong Kong, and to train and select delegations to participate in international sports events. As at 29 February 2020, a total of 79 NSAs (see Appendix A) were members of SF&OC. They were recognised by SF&OC as the official representatives of their respective sports. Of the 79 NSAs, 59 received block grants from LCSD's Sports Subvention Scheme (see Note 4 above).

Note 7: As at 31 March 2019, the Elite Athletes Development Fund had a fund balance of \$11.8 billion. The Fund is solely for supporting the development of elite sports and elite athletes by HKSI. In April 2015, Audit completed a review entitled "Hong Kong Sports Institute Limited" (Chapter 5 of the Director of Audit's Report No. 64).

Note 8: The Sir David Trench Fund for Recreation is a statutory fund established in 1970 under the Sir David Trench Fund for Recreation Ordinance (Cap. 1128) for the purpose of providing facilities for recreational, sporting, cultural and social activities and other objects ancillary or incidental to this purpose. The four sports-related funds of the Sir David Trench Fund for Recreation are:

- (a) Arts and Sport Development Fund, set up in January 1997, of which the sports portion provides funding to SF&OC, NSAs, sports organisations and athletes for, among others, organising international sports events and other sports programmes, and athletes' preparation for and participation in international games;*
- (b) Hong Kong Athletes Fund, set up in August 1996, which provides grants to individual athletes to allow them to pursue excellence in their chosen sports through academic and educational training, and to provide them with the opportunity to develop alternative careers upon retirement from competitive sports;*
- (c) Sports Aid for the Disabled Fund, set up in August 1985, which promotes sports for disabled people; and*
- (d) Sports Aid Foundation Fund, set up in February 1987, which provides assistance (e.g. coaching fees and allowance arising from loss of earnings as a result of participation in competitions) to financially needy athletes in their pursuit of excellence.*

In 2018-19, the Arts and Sport Development Fund paid the largest amount of grants of \$111 million (i.e. about 97% of the total amount of grants of \$115 million of the four funds).

Note 9: Prior to January 2019, funding to the Hong Kong Paralympic Committee & Sports Association for the Physically Disabled was provided through the Arts and Sport Development Fund under the Sir David Trench Fund for Recreation (see Note 8 above).

Introduction

1.4 According to the 2020-21 Budget, to further promote sports development in Hong Kong, the Government will substantially increase the total subvention for SF&OC and 60 NSAs (Note 1) from about \$300 million to more than \$500 million a year over the next four years.

SF&OC

1.5 SF&OC (formerly known as the Amateur Athletic Federation of Hong Kong) was established in November 1950 as a non-profit-making non-governmental organisation and registered under the Societies Ordinance (Cap. 151). In March 2017, SF&OC was incorporated under the Companies Ordinance (Cap. 622) as a company limited by guarantee. In July 2017, SF&OC (as a limited company) formally took over all the businesses, assets and liabilities from its predecessor, i.e. SF&OC registered under the Societies Ordinance, which was subsequently dissolved in April 2018.

1.6 SF&OC has three affiliated companies (i.e. these companies and SF&OC have common directors), namely:

- (a) the Management Company of Olympic House Limited (MCOHL) registered as a charitable organisation under section 88 of the Inland Revenue Ordinance (Cap. 112) in August 2004 (see para. 1.15(b) for more details);
- (b) the SF&OC Sports Legacy Company Limited registered as a charitable organisation under section 88 of the Inland Revenue Ordinance in March 2016, which promotes sports and blends character and career development for students in underprivileged schools and retired/retiring athlete coaches. The scope of its services has been extended to better serve the needs of the community; and
- (c) the Hong Kong Olympic Fans Club Limited being a non-profit making organisation, which provides a platform for the public to interact and

Note 1: *As at 29 February 2020, there were 60 NSAs receiving block grants from LCSD's Sports Subvention Scheme. One of these 60 NSAs was not a member of SF&OC (see Note 6 to Table 1 in para. 1.3).*

contribute to the Olympic Movement (see Note 2 to para. 1.8) and for the promotion of the value of Olympism.

MCOHL, the SF&OC Sports Legacy Company Limited and the Hong Kong Olympic Fans Club Limited were established as companies limited by guarantee under the Companies Ordinance in August 2004, November 2015 and May 2017 respectively.

1.7 As an NOC (see Note 5 to Table 1 in para. 1.3), SF&OC is dedicated to the development and promotion of sports in accordance with the Olympic Charter (see the IOC website — <http://www.olympic.org>), which serves as the statutes for IOC (see Note 5 to Table 1 in para. 1.3). The objects of SF&OC are shown in Appendix B. According to the Olympic Charter, SF&OC, being an NOC, must preserve its autonomy and resist all pressures of any kind, including but not limited to political, legal, religious or economic pressures, which may prevent it from complying with the Olympic Charter.

1.8 SF&OC participates in a number of affiliated Olympic Committees (e.g. IOC and the Olympic Council of Asia) to promote Hong Kong sports in overseas competitions and bring Olympic Movement (Note 2) insights to the local sports community. SF&OC also participates in various sports committees established by the Government (e.g. the Sports Commission and its three committees — Note 3) and in the Board of Directors of HKSI.

Note 2: *Olympic Movement is the concerted, organised universal and permanent action, carried out under the supreme authority of IOC, of all individuals and entities who are inspired by the values of Olympism. Belonging to the Olympic Movement requires compliance with the Olympic Charter and recognition by IOC.*

Note 3: *The Sports Commission was established in 2005 to provide advice to HAB on the policies, strategies and implementation framework for sports development in Hong Kong, and on the provision of funding and resources in support of sports development in Hong Kong. The Sports Commission is underpinned by three committees, namely:*

- (a) the Community Sports Committee which provides advice on wider participation in sports;*
- (b) the Elite Sports Committee which provides advice on matters pertaining to high performance sports; and*
- (c) the Major Sports Events Committee which provides advice on strategies and initiatives for hosting major sports events.*

Introduction

1.9 As at 31 December 2019, SF&OC had 82 members comprising 79 NSAs (NSA members are known as member associations — see Appendix A) and 3 individual ordinary members (Note 4). Only NSAs could nominate athletes to SF&OC to participate in international multi-sports games (hereinafter referred to as international games — see paras. 2.2 and 2.3 for more details).

1.10 SF&OC is governed by a Board of Officers (the Board), which consists of 15 Officers (Note 5). The Board strategises management issues of SF&OC and may exercise all the powers of SF&OC, which are laid down in SF&OC's Articles of Association (see SF&OC website — <http://www.hkolympic.org>). One Honorary Secretary General, three Honorary Deputy Secretaries General and one Honorary Treasurer are responsible for the overall executive management of SF&OC.

1.11 The Board is supported by 29 Committees/Sub-Committees/Panels/Working Groups (hereinafter collectively referred to as committees unless otherwise stated). Of the 29 committees, 27 committees are standing committees and 2 committees are non-standing committees (i.e. formed on a need basis). The committees assist in matters such as strategic management, finance and investment, administration and personnel affairs, membership affairs and appeals, and public relations and corporate communication. Appendix C shows the 29 committees and their functions. As at 31 December 2019, the 27 standing committees had a total of 249 members (Note 6).

Note 4: *According to SF&OC, to fulfill IOC's requirement, SF&OC has three individual ordinary members, i.e. the Member/Honorary Member of IOC and two representatives of SF&OC's Athletes Committee, which is one of the committees of SF&OC (see para. 1.11).*

Note 5: *The 15 Officers comprise 1 President, 8 Vice-presidents, 1 Honorary Secretary General, 3 Honorary Deputy Secretaries General, 1 Honorary Treasurer and 1 Officer (a representative of SF&OC's Athletes Committee). Apart from the representative of SF&OC's Athletes Committee, Officers are nominated by NSAs (see para. 1.9) and elected in SF&OC's annual general meeting. They are appointed for a term of four years and can be re-appointed after election for another four years. The representative of SF&OC's Athletes Committee is elected by the athletes and endorsed in SF&OC's annual general meeting, and is appointed for a term of four years.*

Note 6: *Members of the committees are appointed for a term of one year or four years (i.e. varied among different committees).*

1.12 Day-to-day operations of SF&OC and MCOHL, an affiliated company of SF&OC (see para. 1.6(a)), are under the direct management of the Executive Director, SF&OC. He oversees:

- (a) SF&OC, which comprises:
 - (i) the SF&OC Secretariat, which is mainly responsible for handling corporate matters of SF&OC, organising athletes' participation in international games, organising major local events including the Hong Kong Sports Stars Awards and the Festival of Sport and Olympic Day, and handling membership affairs;
 - (ii) the Office of the Hong Kong Athletes Career and Education Programme (HKACEP), which is mainly responsible for providing post-athletic career, education and life skills support for athletes; and
 - (iii) the Office of the Hong Kong Anti-Doping Committee (HKADC), which is mainly responsible for the planning and implementation of anti-doping programmes; and
 - (b) MCOHL, which is responsible for managing the Olympic House (see para. 1.15(b)) and also acts as an executive arm in promoting various Olympic education programmes of SF&OC, such as the Hong Kong Olympic Academy and the Centre for Olympic Studies.
- 1.13 As at 31 December 2019, excluding the Executive Director, SF&OC:
- (a) SF&OC had 35 staff (i.e. 3 managers, 6 deputy managers, 17 assistant managers and 9 supporting staff (e.g. administrative assistants and office assistants)) responsible for the operation of the SF&OC Secretariat, the Office of HKACEP and the Office of HKADC; and
 - (b) MCOHL had 12 staff (i.e. 1 manager, 2 assistant managers and 9 supporting staff) responsible for the operation of MCOHL.

An organisation chart of SF&OC as at 31 December 2019 is shown in Appendix D.

Introduction

Government funding

1.14 ***Recurrent subventions.*** HAB provides recurrent subventions to SF&OC and MCOHL to implement the subvented programmes (see Appendix E) pursuant to the subvention agreements signed annually between the Government (represented by HAB) and SF&OC, and between the Government (represented by HAB) and MCOHL.

1.15 Subvention agreements are signed annually:

- (a) between the Government and SF&OC for the provision of funding to the SF&OC Secretariat, the Office of HKACEP and the Office of HKADC (see para. 1.12(a)); and
- (b) between the Government and MCOHL (see para. 1.12(b)) for the provision of funding to MCOHL (Note 7). The main function of MCOHL is to manage the Olympic House at Stadium Path, So Kon Po, Causeway Bay (see Photograph 1), which is a property of the Government. Since 2004, MCOHL has been entrusted by the Government to manage the Olympic House. MCOHL provides office accommodation for its tenants (i.e. SF&OC, NSAs and sports-related organisations (e.g. the Hong Kong Sports Press Association Limited)) in the Olympic House (see paras. 2.41 and 2.42 for more details). MCOHL also provides accommodation related services comprising building management services (e.g. cleansing and security), office supporting services (e.g. IDD, photocopying, fax, bulk mailing, meeting room facilities and car parking), and building maintenance services.

HAB agrees the amounts of recurrent subventions with SF&OC and MCOHL on a yearly basis. The recurrent subventions are used to cover the administrative expenditure (e.g. staff salaries and office expenses) of SF&OC and MCOHL, and the expenditure for some programmes and activities of SF&OC.

Note 7: *Unlike MCOHL, the SF&OC Sports Legacy Company Limited and the Hong Kong Olympic Fans Club Limited do not receive any government funding.*

Photograph 1

Olympic House



Source: MCOHL records

1.16 ***One-off allocations.*** On top of the recurrent subventions, from 2004 onwards, HAB had, from time to time, provided one-off allocations to SF&OC and MCOHL:

- (a) in the period 2004-05 to 2012-13, MCOHL was provided with a total sum of \$21 million to cover the improvement works (e.g. replacement of water pumps and electricity supply system) of the Olympic House;
- (b) in March 2008, SF&OC was provided with a sum of \$8.5 million as a start-up fund for its implementation of HKACEP (see para. 2.22 for more details) by the Office of HKACEP (see para. 1.12(a)(ii)). SF&OC was also provided with a sum of \$2.7 million to cover the administrative expenditure of the Office of HKACEP for the period 2008-09 to 2011-12; and

Introduction

- (c) in March 2017:
 - (i) a sum of \$9 million was earmarked (i.e. for drawing on when needed) for SF&OC to cover the programme expenses of the Office of HKACEP;
 - (ii) a sum of \$9 million was earmarked for SF&OC to cover the programme expenses of the Office of HKADC; and
 - (iii) a sum of \$9 million was earmarked for MCOHL to support the continuous operation of MCOHL.

1.17 Table 2 shows the amounts of HAB subventions to SF&OC and MCOHL for the period 2014-15 to 2018-19.

Table 2

**HAB subventions to SF&OC and MCOHL
(2014-15 to 2018-19)**

Subvention	2014-15	2015-16	2016-17	2017-18	2018-19
	(\$'000)				
<i>Recurrent subvention for</i>					
SF&OC					
• The SF&OC Secretariat (Note)	7,196	7,541	7,652	7,862	7,870
• The Office of HKACEP	2,307	2,350	2,250	2,200	2,200
• The Office of HKADC	4,743	4,159	4,400	3,300	3,300
Sub-total	14,246	14,050	14,302	13,362	13,370
MCOHL	7,252	7,459	7,209	6,759	6,759
Total	21,498	21,509	21,511	20,121	20,129
<i>One-off allocation for</i>					
SF&OC					
• The Office of HKACEP	1,455	774	600	267	552
• The Office of HKADC	0	0	0	1,025	1,832
Sub-total	1,455	774	600	1,292	2,384
MCOHL	1,216	1,013	953	1,556	968
Total	2,671	1,787	1,553	2,848	3,352
Grand total	24,169	23,296	23,064	22,969	23,481

Source: SF&OC's audited accounts submitted to HAB

Note: The recurrent subvention includes the subvention provided by HAB for LCSD (and disbursed through HAB to SF&OC) to cover mainly the personnel expenses of an Administrative Assistant post responsible for the organisation of community programmes.

1.18 In addition to HAB subvention, SF&OC also receives the following funding from the Government:

- (a) ***Arts and Sport Development Fund (Sports Portion) (ASDF).*** Funding to SF&OC is provided through ASDF to support Hong Kong athletes' preparation for and participation in international games (see Note 8(a) to Table 1 in para. 1.3) (see Photograph 2). SF&OC also received ASDF funding for organising one-off sports projects (e.g. the Asiana Sport for All Association Congress (see Photograph 3)); and

Photograph 2

**The 18th Asian Games
(2018)**



Source: SF&OC records

Photograph 3

**The 15th Asiana Sport for All Association Congress
(2018)**



Source: SF&OC records

- (b) **LCSD.** LCSD provides funding to SF&OC for organising programmes and activities (e.g. the Festival of Sport, the Hong Kong Sports Stars Awards and the Olympic Day (see Photograph 4)) under the Sports Subvention Scheme (see (b) in Table 1 in para. 1.3).

Photograph 4

2018 Olympic Day (2018)



Source: SF&OC records

1.19 Table 3 shows the income and expenditure of the subvented programmes of SF&OC (Note 8) and MCOHL in 2018-19.

Note 8: *SF&OC has other incomes (e.g. dividends from shares bought with donated monies, and sponsorship from the commercial sector). In 2018-19, such incomes amounted to some \$30 million. SF&OC has kept separate accounts for these incomes and expenditures paid out of these incomes.*

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Table 3
Income and expenditure of the subvented programmes of
SF&OC and MCOHL
(2018-19)

	Amount (\$'000)
<i>SF&OC's income and expenditure</i>	
Income	
Government funding:	
• HAB subvention (see para. 1.14)	15,754 (Note)
• ASDF (administered by HAB)	12,517
• LCSD subvention under the Sports Subvention Scheme	2,900
Sub-total	31,171
Income from other sources supporting the above subvented programmes (e.g. entry fees of sports events organised, interest income and sponsorship)	
• Supporting HAB subvented programmes	895
• Supporting LCSD subvented programme	8,730
Sub-total	9,625
Total	40,796
Expenditure	
Personnel expenses	13,201
Programmes and activities	28,699
Others (e.g. office expenses)	1,380
Total	43,280
<i>MCOHL's income and expenditure</i>	
Income	
HAB subvention (see para. 1.14)	7,727 (Note)
Income from other sources supporting MCOHL's subvented programme:	
• Income from commercial activities (e.g. hiring of meeting facilities by the public)	4,101
• Management fees and payment of government rates from tenants	2,256
• Sundry income (e.g. interest income)	248
Sub-total	6,605
Total	14,332
Expenditure	
Staff salaries	4,883
Rent and rates paid to Government	2,941
Facilities operating expenses	3,002
Utilities	1,181
Repair and maintenance	565
Others (e.g. office expenses)	854
Total	13,426

Table 3 (Cont'd)

Source: SF&OC's and MCOHL's audited accounts of their subvented programmes submitted to HAB

Note: The total amount of HAB funding to SF&OC and MCOHL in 2018-19 was \$24 million (see (f) in Table 1 in para. 1.3) which comprised:

- (a) \$15,754,000 = \$13,370,000 (recurrent subvention for SF&OC) + \$2,384,000 (one-off allocation for SF&OC) (see Table 2 in para. 1.17);
- (b) \$7,727,000 = \$6,759,000 (recurrent subvention for MCOHL) + \$968,000 (one-off allocation for MCOHL) (see Table 2 in para. 1.17); and
- (c) \$447,000 which was the payment for engaging SF&OC to provide administrative services on the Retired Athletes Transformation Programme, which facilitates retired athletes' career development by providing them with a platform (e.g. at sports organisations and schools) to earn work experience, supplemented with on-the-job training and education subsidies for their academic enhancement.

Audit review

1.20 Over the years, Audit has conducted various audits concerning different issues relating to sports development in Hong Kong (see Notes 2, 3, 4 and 7 to Table 1 in para. 1.3). Against this background, in September 2019, Audit commenced a review of SF&OC (including operational issues concerning MCOHL). The audit review has focused on the following areas:

- (a) operation of SF&OC (PART 2);
- (b) government funding and monitoring (PART 3); and
- (c) governance issues (PART 4).

Audit has found room for improvement in the above areas and has made a number of recommendations to address the issues.

Introduction

1.21 Audit has also conducted a review of management of funding for sports development through ASDF. The audit findings are contained in Chapter 1 of the Director of Audit's Report No. 74 (Note 9).

General response from SF&OC

1.22 The President of SF&OC has said that SF&OC agrees with the recommendations in the Audit Report. He appreciates the effort of Audit's staff to review SF&OC's businesses and to draft the valuable audit report for the reference of SF&OC. In order to build up a positive public image for the sport industry, he recognises that the recommendations from the Audit Report are very helpful for the continuous improvement of SF&OC's corporate governance.

General response from the Government

1.23 The Secretary for Home Affairs welcomes the recommendations in the Audit Report which are conducive to HAB's continued monitoring of the Government funding provided to SF&OC.

Acknowledgement

1.24 Audit would like to acknowledge with gratitude the full cooperation of the staff of HAB, SF&OC and LCSD during the course of the audit review.

Note 9: *Issues relating to SF&OC, which are covered in the audit review of management of funding for sports development through ASDF, are not covered in this Audit Report.*

PART 2: OPERATION OF SPORTS FEDERATION & OLYMPIC COMMITTEE OF HONG KONG, CHINA

2.1 This PART examines the operation of SF&OC, focusing on:

- (a) selection of athletes for participating in international games (paras. 2.2 to 2.16);
- (b) handling of membership affairs (paras. 2.17 to 2.21);
- (c) management of HKACEP (paras. 2.22 to 2.33);
- (d) conduct of doping tests (paras. 2.34 to 2.40);
- (e) management of the Olympic House (paras. 2.41 to 2.55); and
- (f) procurement issues (paras. 2.56 to 2.61).

Selection of athletes for participating in international games

2.2 Table 4 shows the number of athletes participating as the Hong Kong, China Delegation in some major international games (Note 10) and the results achieved by them in recent years.

Note 10: *International games include, for example, the Asian Beach Games, Asian Games, Asian Winter Games, Olympic Games, Olympic Winter Games and Summer Youth Olympic Games.*

Table 4

**Number of athletes participating as Hong Kong, China Delegation in
international games and results achieved by them
(2012 to 2018)**

Games	Year	No. of athletes	No. of medals achieved			
			Gold	Silver	Bronze	Total
Olympic Games	2012	42	0	0	1	1
	2016	38	0	0	0	0
Youth Olympic Games	2014	18	2	4	1	7
	2018	25	0	2	1	3
Asian Games	2014	468	6	12	24	42
	2018	584	8	18	20	46

Source: SF&OC records

2.3 According to the Olympic Charter, SF&OC, as NOC of Hong Kong, China, has the exclusive authority for the representation of the region in international games. For athletes to participate in the games (e.g. Olympic Games and Asian Games) as the Hong Kong, China Delegation:

- (a) NSAs (see Appendix A), who are members of SF&OC (see para. 1.9), nominate athletes for inclusion in the Hong Kong, China Delegation based on NSAs' own nomination criteria, as different sports events have different characteristics; and

- (b) nominations are submitted by NSAs to SF&OC's International Multi-Sports Games Selection Committee (Selection Committee — Note 11) for selecting the Hong Kong, China Delegation. If an NSA is not satisfied with the Selection Committee's decision, it can request unlimited number of reviews of the Selection Committee's decision and may also file an appeal to SF&OC's International Multi-Sports Games Appeal Panel (Note 12) for a final decision.

SF&OC leads the Hong Kong, China Delegation to participate in competitions held in host countries.

Need to enhance transparency in selecting athletes to participate in international games

2.4 In December 2011, the “Best Practice Reference for Governance of National Sports Associations — Towards Excellence in Sports Professional Development” (BPR) was drawn up by the Independent Commission Against Corruption (ICAC) in consultation with HAB, LCSD and some NSAs. BPR aims, among others, to assist NSAs to enhance transparency in their operations and governance. According to ICAC, BPR helps NSAs strengthen their governance with a view to generating a positive and far-reaching impact on Hong Kong's long-term sports development. In addition, good governance is the cornerstone of sports achievement. Furthermore, according to ICAC, BPR provides guidance on principles and standards of good governance and internal control for adoption by NSAs to protect their core functions from corruption and malpractice. NSAs are advised to adopt the recommended practices as far as practicable according to their organisation structure, resource capability and operational needs.

Note 11: *The International Multi-Sports Games Selection Committee comprises SF&OC's Honorary Secretary General (see Note 5 to para. 1.10) as the Chairperson, representatives of appropriate NSAs nominated by the Chairperson, and the manager of the SF&OC Secretariat as the secretary.*

Note 12: *The International Multi-Sports Games Appeal Panel comprises the President of SF&OC as the Chairperson, two members, and the highest ranking staff of SF&OC (i.e. the Executive Director) as the secretary. The two members are selected from a list of four to six members for the Appeal Panel, who are proposed by the Board of Officers (see para. 1.10) and endorsed at SF&OC's annual general meeting for a tenure of four years. When the Appeal Panel is to be convened, the Chairperson shall select two members from the approved list to hear the appeal, having regard to their availability and conflicts of interest.*

2.5 Under BPR, among other things, a set of best practices is provided to enhance the transparency in the selection of athletes to participate in sports games (e.g. local and regional sports games as well as international games). According to BPR, a robust, fair and transparent system for selecting athletes is essential. The fundamental principles in athlete selection are to promulgate core values of equal opportunities and fair competition in athlete selection, and to ensure transparency in respect of the information about the selection and the selection process. Selection policy with selection criteria and the weighting of each criterion should be adopted in each selection exercise.

2.6 In a meeting of the Legislative Council Panel on Home Affairs held in December 2012, in addition to NSAs, concern was expressed on the monitoring of the governance of SF&OC. HAB stated in the meeting that the issue of BPR is a specific measure for both SF&OC and NSAs to enhance their governance.

2.7 Audit examined the extent to which SF&OC had implemented BPR best practices on the transparency in selecting athletes for participating in international games. Audit found that SF&OC could do more to implement the best practices. Table 5 shows that, up to 29 February 2020, some of the best practices were yet to be implemented by SF&OC.

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Table 5

**Implementation of BPR best practices on transparency in selecting athletes
by SF&OC
(29 February 2020)**

No.	Best practices in BPR	Implemented	Implementation in progress	Not yet implemented
1.	Promulgate the core values of equal opportunities and fair competition in athlete selection	✓		
2.	Allow athletes fair and full opportunity to display their worthiness for selection and to fulfil the aims of the organisation at the competition	✓		
3.	Ensure the transparency of the information about the selection process and timeliness in the dissemination of the information	✓ (Note 1)		
4.	Uphold the principle of impartiality in the selection process, including the formulation of a mechanism for declaring conflict of interest, actual or perceived, and the guidelines for taking appropriate actions following the declaration	✓		
5.	Make a public statement of commitment to ethical practices in athlete selection and compliance with the fundamental principles in athlete selection	✓		
6.	Formulate the objective(s) or target(s) for each and/or each type of event and competition, such as nurturing second tier athletes in championship events corresponding to their levels, and selecting the best hopefuls for competing in world-class competitions	✓		
7.	Work out the selection criteria and the weighting of each criterion to be adopted in each selection exercise		✓ (Note 2)	
8.	Determine the selection method, e.g. selection trials, and coach assessment, or a combination of methods to afford opportunities to capable athletes to demonstrate their ability to achieve the desired results	✓		

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Table 5 (Cont'd)

No.	Best practices in BPR	Implemented	Implementation in progress	Not yet implemented
9.	Map out the selection procedures	✓		
10.	Formulate the appeal mechanism	✓		
11.	Document the objective(s) or target(s), selection criteria or standards, mode of selection and appeal process to form a selection policy document	✓		
12.	Publicise the selection policy amongst the stakeholders	✓		
13.	Review the selection policy periodically to factor in changes of circumstances	✓		
14.	Establish a selection committee to implement the selection policy	✓		
15.	Ensure a proper appointment mechanism to appoint only those individuals meeting the stipulated requirements to the committee	✓		
16.	Assess the appropriateness of quantitative and qualitative approach to athlete selection in competitions of various nature	✓		
17.	Map out a set of selection criteria for the competition and assign weighting to each criterion		✓ (Note 2)	
18.	Define the quantitative standards for objective criteria (e.g. minimum world ranking, performance benchmarks)	✓		
19.	Lay down the guiding references for the assessment of athletes' suitability against subjective criteria (e.g. expert assessment of athletes' winning chance having considered their psychological factor, competition results and latest performance, and collective views of coaches)	✓ (Note 3)		
20.	Ensure timely dissemination of the selection criteria in sufficient details and clarity to enable interested athletes to prepare for the selection	✓		
21.	Lay down and publicise the important information about the selection exercise (e.g. mode of selection and appeal mechanism)	✓		

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Table 5 (Cont'd)

No.	Best practices in BPR	Implemented	Implementation in progress	Not yet implemented
22.	Publicise information on selection trials (if applicable)	✓		
23.	Announce, where the selection is based on past performance, the qualification period(s) and competitions or events recognised for selection	✓		
24.	Ensure proper conduct of the selection and comprehensive documentation of the decision making process		✓	
25.	Ensure timely announcement of the selection decision	✓		
26.	Determine the overall appeal framework, including the formation of an appeal panel, powers of the appeal panel, and appeal procedures	✓		
27.	Make it a standing practice to review and assess the selection policy	✓		
28.	Set out appropriate channels to collect feedback from stakeholders e.g. questionnaires			✓
29.	Draw up improvement or enhancement plans for deliberation by the Board, and if endorsed, for incorporation into future selection exercises			✓

Source: Audit analysis of SF&OC records and audit enquiries with SF&OC staff

Note 1: In respect of the transparency of the information about the selection process, as an example, the website of SF&OC showed no information such as the dates of the qualifying events and quotas of events leading to international games. In respect of timeliness, as an example, the NOCs of Australia, Canada and the United States had published the selection processes for the 2020 Olympic Games on their websites, while SF&OC (NOC of Hong Kong, China) had not published the process. In March 2020, SF&OC informed Audit that NSAs are the main working partners of the selection process at SF&OC level. Information was dispatched by International Federation/Asian Federation to NSAs and/or via SF&OC (if applicable) in a timely manner, thus placing information on the website would not be particularly useful.

Table 5 (Cont'd)

- Note 2: In March 2020, SF&OC informed Audit that it has no right to nominate athletes to participate in international games. SF&OC either can consider to accept or reject the submission from NSAs. The selection criteria set by SF&OC are objective criteria, which serve as a controlling tool to examine if the submission from NSAs is up to the required standard when comparing with other counterparts in Asia/World. The SF&OC's Selection Committee can further accept remaining athletes within NSAs' nominations but below the required standard. If appropriate, NSAs representatives will be invited to attend a selection meeting and brief the members of the Committee. The Committee will consider other subjective criteria in the meeting, which are of equal importance in selecting the most suitable athletes to achieve the desired results. SF&OC will work out a checklist to ensure that the criteria (especially qualitative criteria) are followed in selecting/accepting athletes.*
- Note 3: In March 2020, SF&OC informed Audit that while SF&OC has not laid down the guiding references for the assessment of athletes' suitability against subjective criteria, NSAs should lay down a set of subjective criteria for their selection and to be submitted to SF&OC for record. This requirement has been laid down in SF&OC's circular to NSAs. SF&OC considers that by laying down this requirement, this BPR best practice has been followed.*

2.8 To enhance the transparency in selecting athletes to participate in international games, Audit considers that SF&OC needs to continue to make efforts to implement the best practices relating to the transparency in athlete selection as set out in BPR. As BPR is a specific measure for SF&OC to enhance its governance (which covers transparency matters) (see para. 2.6) and good governance is the cornerstone of sports development (see para. 2.4), HAB needs to encourage SF&OC to implement the best practices and follow up the implementation of such practices by SF&OC.

2.9 Audit attempted to examine the transparency as well as accountability in selecting athletes to participate in international games by reviewing the complaint files received by SF&OC in years 2017 to 2019. In March 2020, SF&OC informed Audit that in years 2017 to 2019, there were no complaints on selection of athletes by SF&OC. In this connection, Audit noted that in October 2018, in a Legislative Council meeting, a Legislative Council Member expressed concern over the transparency in selecting athletes to participate in an international game. Audit examined this case and found that there is scope for enhancing the transparency and accountability in selecting athletes as illustrated in Case 1.

Case 1

**Selection of athletes to participate in swimming events
in the 18th Asian Games
(2018)**

1. On 7 March 2018, SF&OC informed NSAs, through a circular, the criteria for selecting athletes to participate in the 18th Asian Games. According to the circular, the selection took into consideration:

- (a) athletes' outstanding results in sports games (e.g. ranked 1st to 8th in 2014 to recent World or Asian Championships and ranked 1st to 8th in various multi-sports games (including 2014 Asian Games, 2017 Asian Indoor and Martial Arts Games);
- (b) participation in the Rio 2016 Olympic Games;
- (c) in the absence of (a) and (b) above, athletes' best performance in the nominated events (Note) in years 2014 to 2018; and
- (d) NSAs' preparation plans for their athletes, including training and competitions in the coming six months leading to the 18th Asian Games.

2. On 19 April 2018, an NSA nominated 21 male athletes for participation in swimming events in the 18th Asian Games to SF&OC. On 24 April 2018, SF&OC's Selection Committee conducted a selection meeting. As recorded in the Committee's minutes of the meeting, of the 21 athletes:

- (a) 17 athletes were selected. Of the 17 athletes:
 - (i) 15 athletes were selected on the grounds that they:
 - met the selection criteria (see para. 1);
 - were members of relay teams (there were no further details in the minutes of the meeting); or
 - were holders of HKSI Elite C scholarships; and
 - (ii) 2 athletes, though had failed to meet the selection criteria, were selected on the grounds that:
 - 1 athlete (Athlete A) had achieved good results in the 2017 Asian Indoor and Martial Arts Games; and

Case 1 (Cont'd)

- another athlete (Athlete B) was a key player on a 4×100 metres mixed medley relay (butterfly leg); and
 - (b) 4 athletes were not selected as they failed to meet the selection criteria.
3. In March 2020, SF&OC informed Audit about the sequence of selection of the 17 male athletes (see para. 2(a)) was:
- (a) 6 athletes were selected on the grounds that they met the selection criteria (see para. 1(a) and (b)); and
 - (b) 11 athletes were selected based on other factors:
 - (i) 5 athletes were selected on the grounds that they were members of relay teams;
 - (ii) 4 athletes were selected on the grounds that they were holders of HKSI Elite C or similar scholarships;
 - (iii) 1 athlete (Athlete A) was selected on the grounds that he had achieved good results in the 2017 Asian Indoor and Martial Arts Games; and
 - (iv) another athlete (Athlete B) was selected on the grounds that he was a key player on a 4×100 metres mixed medley relay (butterfly leg), which was a new event.

Audit comments

4. Audit found that there is scope for enhancing the transparency and accountability in selecting athletes to participate in swimming events in the 18th Asian Games, as follows:
- (a) it appears that being members of relay teams or holders of HKSI Elite C scholarships or similar scholarships (see para. 3(b)(i) and (ii)) was not one of the announced selection criteria (see para. 1). To enhance transparency, SF&OC needs to more clearly publish its selection criteria in future; and
 - (b) with respect to Athlete A and Athlete B who had not met the selection criteria but were eventually selected (see para. 3(b)(iii) and (iv)), according to the minutes of the meeting (see para. 2), there were no further deliberations on:

Case 1 (Cont'd)

- (i) Athlete A's "good results" in the 2017 Asian Indoor and Martial Arts Games; and
- (ii) the selection of Athlete B despite that the athlete was only a key player in a 4 × 100 metres mixed medley relay (butterfly leg).

To enhance transparency and accountability, SF&OC needs to properly document the justifications for selecting athletes to participate in international games in future, especially for athletes who are selected based on criteria other than those laid down as SF&OC's selection criteria.

Source: Audit analysis of SF&OC records

Note: The types and details of nominated events had not been specified in the selection criteria.

Remarks: The concern expressed by the Legislative Council Member (see para. 2.9) was relating to Athlete A. In response to the concern, HAB provided more information on Athlete A's attainments (which had not been recorded in the minutes of the meeting — see para. 2 in this Case) in a reply to an oral question raised by the Legislative Council Member at the Legislative Council meeting in October 2018. HAB also mentioned that SF&OC's Selection Committee had in place a mechanism for preventing conflicts of interest in selecting athletes (see PART 4 for audit observations relating to declaration of conflicts of interest by Officers of the Board and members of committees of SF&OC).

Need to enhance impartiality in the appeal mechanism

2.10 As mentioned in paragraph 2.3(b), if an NSA is not satisfied with the decision of SF&OC's Selection Committee, it can appeal to SF&OC's Appeal Panel for a final decision.

2.11 Audit research on the appeal mechanisms of Australia, Canada, Japan, Singapore and the United States found that in some of these overseas countries:

- (a) the public could seek independent advice on sports-related disputes from independent professionals:

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- (i) in Australia, from independent lawyers and the Olympic Appeal Consultants appointed by the Australian Olympic Committee;
 - (ii) in Canada, from professionals under the independent Sport Dispute Resolution Centre of Canada which is constituted by a federal act and is funded by the Government of Canada; and
 - (iii) in the United States, from the Athlete Ombudsman; and
- (b) appeals are handled by independent bodies:
 - (i) in Australia, appeals are heard by the Court of Arbitration for Sport;
 - (ii) in Canada, the appeals are handled by the independent Sport Dispute Resolution Centre of Canada. The Centre provides access to independent alternative dispute resolution solutions for all participants in the Canadian sport system; and
 - (iii) in the United States, the complainants may request arbitration with the American Arbitration Association (Note 13) if they are not satisfied with the decision of the United States Olympic & Paralympic Committee.

2.12 To enhance impartiality, in Audit's view, SF&OC needs to explore the merit of establishing in Hong Kong similar appeal mechanisms (Note 14) as adopted in some advanced overseas countries.

Note 13: *American Arbitration Association is a not-for-profit public service organisation in the field of alternative dispute resolution, providing services to individuals and organisations who wish to resolve conflicts out of court.*

Note 14: *In Hong Kong, there is a Hong Kong International Arbitration Centre, which is an independent and non-profit-making organisation specialising in arbitration, mediation, adjudication and domain name dispute resolution services.*

Audit recommendations

- 2.13 **Audit has *recommended* that the Executive Director, SF&OC should:**
- (a) **continue to make efforts to implement the best practices relating to the transparency in athlete selection as set out in BPR;**
 - (b) **more clearly publish the criteria adopted by SF&OC for selecting athletes to participate in international games;**
 - (c) **properly document the justifications for selecting athletes to participate in international games, especially for athletes who are selected based on criteria other than those laid down as SF&OC's selection criteria; and**
 - (d) **explore the merit of establishing in Hong Kong similar appeal mechanisms as adopted in some advanced overseas countries.**
- 2.14 **Audit has *recommended* that the Secretary for Home Affairs should:**
- (a) **encourage SF&OC to implement the best practices set out in BPR relating to the transparency in athlete selection; and**
 - (b) **follow up the implementation of the best practices by SF&OC.**

Response from SF&OC

- 2.15 **The President of SF&OC has said that SF&OC:**
- (a) **generally agrees with the audit recommendations in paragraph 2.13; and**
 - (b) **will adopt the audit recommendations as far as practicable, including the review of existing appeal mechanism.**

Response from the Government

2.16 The Secretary for Home Affairs accepts the audit recommendations in paragraph 2.14. He has said that HAB will closely monitor the follow-up action by SF&OC in implementing the best practices in BPR.

Handling of membership affairs

2.17 Handling of membership affairs, including the admission and suspension of members, is a major responsibility of the SF&OC Secretariat (see para. 1.12(a)(i)). As at 31 December 2019, SF&OC has 79 NSA members (see para. 1.9).

2.18 NSA members should comply with the requirements of the Olympic Charter (see para. 1.7), the Code of Ethics of IOC (Note 15), and SF&OC's Articles of Association. If an NSA member has infringed the requirements, SF&OC has the power to cancel or suspend its membership, after giving one month's notice to the NSA member who shall be requested to furnish an explanation.

2.19 Audit noted that although NSA members are required to comply with the aforesaid requirements, there is no mechanism in place to ensure their compliance with the requirements. Case 2 illustrates this audit observation (Note 16).

Note 15: *The Code of Ethics of IOC is available at www.olympic.org.*

Note 16: *In 2019, in addition to the NSA mentioned in Case 2, SF&OC received 28 complaints against 12 NSAs.*

Case 2

**Suspension of membership of an NSA
(2016 to 2019)**

1. In years 2016 to 2019, SF&OC received 107 complaints against an NSA for its maladministration, lack of procedures for declaration of conflicts of interest, confusions/unfairness in the process of selecting athletes to participate in sports games, and lack of transparency in the selection of athletes.
2. According to SF&OC, it was not empowered to investigate complaint cases. In June 2016, however, in view of the increase in the number of complaints against one NSA, SF&OC looked into the relevant complaints.
3. In December 2017, SF&OC opined that the NSA had failed to handle the complaints in a proper manner due to poor administration and mismanagement of its Executive Committee. SF&OC considered that the NSA had infringed:
 - (a) the Olympic spirit (Note 1) as required by the Code of Ethics of IOC and SF&OC's Articles of Association. The NSA had, from January 2016 up to the time of providing opinions by SF&OC, failed or refused to adopt a proper system of selecting athletes and adhered to the fundamental principle of fair play; and
 - (b) the standard of satisfactory governance and management as required by SF&OC's Articles of Association. The NSA had, from January 2016 up to the time of providing opinions by SF&OC, failed or neglected to dispose of the public complaints up to a reasonably acceptable standard or in an open, fair and just manner with transparency. Furthermore, the NSA had failed or refused to provide satisfactory explanations to the queries raised by SF&OC.
4. In June 2018, SF&OC passed a special resolution in a general meeting to suspend the membership of the NSA in accordance with SF&OC's Articles of Association. The suspension effected immediately until further decision of SF&OC.

Case 2 (Cont'd)

5. In September 2019, SF&OC granted a provisional reinstatement of membership to the NSA with effect from 1 October 2019 for one year. In the period of provisional reinstatement of membership, two persons nominated by SF&OC (Note 2) sat in all the meetings of the NSA as observers and attended all activities of the NSA. They acted as a conduit between the General Committee of the NSA and SF&OC, and were tasked to report to SF&OC promptly if they deemed that any inappropriate actions had been taken by the General Committee of the NSA.

Audit comments

6. While NSA members are required to comply with the requirements stipulated in the Olympic Charter, the Code of Ethics of IOC, and SF&OC's Articles of Association, no mechanism is in place to ensure compliance with the requirements by the NSA members. Under the Olympic Charter, SF&OC has full autonomy, including the full discretion in dealing with its membership affairs. Audit considers that while respecting the autonomy and independence of NSAs, SF&OC needs to explore the merit of establishing a mechanism to gauge NSA members' compliance with the requirements. Such a mechanism may include, for example, reminding periodically NSA members to observe the requirements, completing annual self-assessment forms and submitting them to SF&OC for evaluation, and conducting sample checks on NSA members' compliance with the requirements.

Source: Audit analysis of SF&OC records

Note 1: Olympic spirit requires mutual understanding with a spirit of friendship, solidarity and fair play.

Note 2: The two persons were former members of SF&OC's committees.

Audit recommendation

2.20 Audit has *recommended* that the Executive Director, SF&OC should explore the merit of establishing a mechanism to gauge NSA members' compliance with the requirements of the Olympic Charter, the Code of Ethics of IOC, and SF&OC's Articles of Association.

Response from SF&OC

2.21 The President of SF&OC has said that:

- (a) SF&OC agrees with the audit recommendation; and
- (b) with the increase of subvention in the 2020-21 Budget and the next four years, SF&OC undertakes to allocate new resources to review the corporate governance of NSAs including but not limited to reviewing their Articles of Associations, the composition of their executive boards and election mechanisms, financial reporting and auditing compliances, etc.

Management of the Hong Kong Athletes Career and Education Programme

2.22 HKACEP (see para. 1.12(a)(ii)) aims to deliver three core provisions for elite athletes in Hong Kong, namely Career, Education and Life Skills. These provisions are to support elite athletes to gain respect and self-confidence through programmes organised, and to enable them to increase their competitiveness in global employment markets.

2.23 Audit examined HKACEP's support to elite athletes and found that there is scope for improvement in a number of areas, as shown in paragraphs 2.24 to 2.31.

Need to instigate remedial measures for the slow progress of some English course participants

2.24 Under HKACEP, an English online course is provided for athletes to enhance their level of English. The course is sponsored by a commercial English learning centre. In 2018-19, there were 124 course participants. Based on the progress records of the participants provided by the learning centre to SF&OC, of the 124 participants, 43 had advanced at least one grade level and 81 had failed to achieve at least one grade level after joining the course. Audit analysed the progress made by the 124 participants of the English course and found that as at 31 March 2019:

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- (a) 69 (56%) participants had joined the course for more than four years (i.e. on or before 2014-15) (Note 17); and
- (b) among these 69 participants, 40 (58%) had failed to advance at least one grade level after joining the course.

Details are shown in Table 6.

Table 6
Progress of participants of English online course
(31 March 2019)

Year of entry into the course	Number of participants		
	Advanced at least one grade level	Failed to advance at least one grade level after joining the course	Total
2008-09	3	0	3
2009-10	5	1	6
2010-11	4	2	6
2011-12	8	14	22
2012-13	1	1	2
2013-14	0	2	2
2014-15	8	20	28
2015-16	3	11	14
2016-17	6	16	22
2017-18	2	5	7
2018-19	3	9	12
Total	43	81	124

69
(56%)

55
(44%)

Source: Audit analysis of the progress records of the English course participants provided by the English learning centre to SF&OC

Note 17: *Audit used a benchmark of four years on the grounds that a participant of the English course is required to pay a deposit of \$2,000 to SF&OC, he/she may ask for a refund of the deposit after four years of entry into the course. According to SF&OC, although the course (which is sponsored by an English learning centre) lasts for one year, an athlete could continue to attend the course after one year.*

2.25 In March 2020, SF&OC informed Audit that the English online course aims to enhance the English proficiency of Hong Kong athletes in the long run while the athletes are attending intensive sports training at the time. For athletes, their priority concern is competition results and English language study is not their priority. This would be the main reason for the slow progress of study.

2.26 As shown in paragraph 2.24, more than 50% of the English course participants failed to advance at least one grade level after joining the course for a long period of time. To ensure that the aims of HKACEP are met (see para. 2.22), Audit considers that SF&OC needs to closely monitor the slow progress of some English course participants (e.g. by making enquiries with the participants and the English learning centre) and instigate appropriate remedial measures.

Need to monitor the claiming of scholarships for athletes

2.27 Under HKACEP, scholarships are provided on a reimbursement basis to retiring or retired athletes for pursuing better qualifications (e.g. vocational skills training and post-secondary education). To claim the scholarships, athletes need to provide evidence of completion of their study programmes and original receipts of tuition fees paid for the programmes. Eligible athletes can apply for the scholarship programme for vocational skills training, post-secondary education, language enrichment course, undergraduate, postgraduate and master course. In years 2014-15 to 2018-19, the amounts of approved scholarships ranged from \$400 to \$144,000.

2.28 Table 7 shows the numbers and amounts of HKACEP scholarships approved for athletes in the period 2014-15 to 2018-19.

Table 7
Numbers and amounts of approved HKACEP scholarships
(2014-15 to 2018-19)

Approved scholarship	2014-15	2015-16	2016-17	2017-18	2018-19
Number	18	17	10	15	26
Amount (\$)	445,263	327,243	340,750	375,364	470,512

Source: SF&OC records

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2.29 Audit analysed athletes' claiming of HKACEP scholarships for the period 2014-15 to 2018-19. Results of Audit's analysis are shown in Table 8.

Table 8

**Claiming of HKACEP scholarships by athletes
(as at 31 December 2019)**

Claim status	Year of approval					Total
	2014-15	2015-16	2016-17	2017-18	2018-19	
	No. of approved scholarships					
Amount fully claimed	12 (66%)	11 (65%)	8 (80%)	7 (46%)	16 (61%)	54 (63%)
Amount partially claimed	1 (6%)	Nil	Nil	1 (7%)	1 (4%)	3 (3%)
Amount not yet claimed	4 (22%)	5 (29%)	2 (20%)	6 (40%)	7 (27%)	24 (28%)
		11				
Scholarship renounced by athletes	1 (6%)	1 (6%)	Nil	1 (7%)	2 (8%)	5 (6%)
Total	18 (100%)	17 (100%)	10 (100%)	15 (100%)	26 (100%)	86 (100%)

Source: Audit analysis of SF&OC records

2.30 As shown in Table 8, as at 31 December 2019:

- (a) 11 scholarships, which had been approved more than 2.5 years ago (i.e. approved in the period 2014-15 to 2016-17), had not been claimed by the 11 athletes concerned. According to SF&OC records, the amounts of these scholarships ranged from \$1,500 to \$60,000. In March 2020, SF&OC informed Audit that HKACEP has maintained regular contacts with the concerned athletes since late 2018. All of them had only verbally replied to withdraw the scholarships due to personal reasons as they had not made up their mind on further studies, etc. HKACEP therefore allowed the athletes more time to consider and would only update its records upon receipt of the written confirmation from the concerned athletes; and

- (b) one athlete had only partially claimed the scholarship approved in 2014-15. According to SF&OC records, the scholarship amounted to \$144,000 and the athlete had made partial claims of \$33,600 and \$25,200 in September 2016 and April 2017 respectively. In August 2016, the athlete applied for an extension of his study. Up to 31 December 2019, there was no documentation indicating that his extension had been approved, nor was there evidence indicating that SF&OC had taken actions to follow up the progress of study of the athlete.

2.31 To ensure that the aims of HKACEP are achieved, Audit considers that SF&OC needs to closely monitor the progress of studies of athletes with approved HKACEP scholarships and the claiming of scholarships by them, and provide timely assistance to athletes. Furthermore, to facilitate future monitoring and to enhance accountability, SF&OC needs to document follow-up actions taken.

Audit recommendations

2.32 **Audit has *recommended* that the Executive Director, SF&OC should:**

- (a) **closely monitor the slow progress of some English course participants and instigate appropriate remedial measures;**
- (b) **closely monitor the progress of studies of athletes with approved HKACEP scholarships and their claiming of scholarships, and provide timely assistance to them; and**
- (c) **to facilitate future monitoring and to enhance accountability, document follow-up actions taken on athletes not claiming scholarships.**

Response from SF&OC

2.33 The President of SF&OC has said that SF&OC accepts the audit recommendations.

Conduct of doping tests

2.34 The Office of HKADC (see para. 1.12(a)(iii)) was set up in September 2008. It is committed to preserve a doping-free environment for fair play in sports in Hong Kong and ensure that Hong Kong's Anti-Doping Rules are in full compliance with the World Anti-Doping Code (Note 18) and the relevant international regulations.

2.35 The main function of the Office of HKADC, apart from providing educational and outreach programmes relating to anti-doping to athletes, and liaising with organisations such as NSAs and international sports federations, is to conduct doping tests for athletes.

Need to enhance the conduct of doping tests

2.36 According to the anti-doping requirements of the Office of HKADC, among other things:

- (a) all athletes under the jurisdiction of an NSA should be subject to doping tests at any time or place, without advance notice by the Office of HKADC;
- (b) for the Office of HKADC to conduct doping tests, athletes are required to submit to the Office of HKADC information relating to their whereabouts (e.g. full addresses of their daily overnight residence) on a quarterly basis and as and when required;
- (c) athletes will be required to provide explanations, within 14 days of the date of the initial notification letter (usually e-mail is used instead), in circumstances where they could not be located for doping tests; and
- (d) athletes may be subjected to more stringent requirements (e.g. providing daily a 60-minute timeslot between 5 a.m. and 11 p.m. during which an athlete will be available for a doping test) or may become ineligible to join

Note 18: *The World Anti-Doping Code is published by the World Anti-Doping Agency. It harmonises anti-doping policies in all sports and in all countries.*

competitions for up to two years if, for example, they failed, for three times within a twelve-month period, to be located for doping tests.

2.37 Doping control officers (DCOs) are engaged by the Office of HKADC to collect samples from athletes for doping tests. It is the Office of HKADC's practice to deploy the mission to DCOs within a specified period before the day of collection of samples. Audit examined the doping tests conducted by the Office of HKADC in the period 2014-15 to 2018-19, and found that owing to the fact that some athletes could not be located, there were unsuccessful attempts to conduct the tests. Table 9 shows the number of doping tests conducted and the number of unsuccessful attempts to conduct the tests in the period.

Table 9

**Doping tests conducted and unsuccessful attempts to conduct doping tests by
the Office of HKADC
(2014-15 to 2018-19)**

	2014-15	2015-16	2016-17	2017-18	2018-19
No. of tests conducted	464	401	289	401	492
No. of unsuccessful attempts to conduct tests	51	47	50	51	69

Source: SF&OC records

2.38 Of the 69 unsuccessful attempts in 2018-19 (see Table 9 above), Audit examined 10 unsuccessful attempts to ascertain the follow-up actions taken by the Office of HKADC on the athletes concerned. The 10 unsuccessful attempts were related to six athletes (i.e. 3 attempts for Athlete C, 2 attempts for each of Athletes D and E, and 1 attempt for each of Athletes F, G and H). Audit found that:

- (a) of the six athletes (Athletes C to H), only four athletes (Athletes C, E, G and H) had been sent e-mails (see para. 2.36(c)) notifying them about the unsuccessful attempts and requesting them to provide accurate information on their whereabouts;

- (b) two of the six athletes (Athletes C and D) had subsequently updated their whereabouts to the Office of HKADC. However, as the updated whereabouts of the athletes had not been provided to DCOs, doping tests had not been conducted for the two athletes;
- (c) there were no laid-down requirements on the number of attempts to be made to locate an athlete. The number of attempts made for Athletes C to H varied;
- (d) contrary to the anti-doping requirement (see para. 2.36(c)), all the six athletes had not been asked at any point in time to provide explanations on why they could not be located; and
- (e) while four athletes (Athletes C, D, F and H) selected for doping tests were eventually subjected to the tests, no doping tests had been conducted for the other two athletes (Athletes E and G).

Audit recommendations

2.39 Audit has *recommended* that the Executive Director, SF&OC should:

- (a) **ensure that initial notification letters/e-mails are always sent to athletes who have provided inaccurate whereabouts and could not be located for doping tests;**
- (b) **ensure that updated whereabouts of athletes are provided to DCOs as far as practicable;**
- (c) **lay down internal guidelines on the number of attempts to be made to locate an athlete for a doping test;**
- (d) **ensure that athletes who could not be located for doping tests are requested to provide explanations on why they could not be located; and**
- (e) **step up efforts to locate athletes for doping tests.**

Response from SF&OC

2.40 The President of SF&OC has said that SF&OC accepts the audit recommendations.

Management of the Olympic House

2.41 The Olympic House is managed by MCOHL (see para. 1.12(b)). According to the Government Property Agency, the Olympic House comprises a total building area of 7,800 square metres or thereabouts and accommodates with ground floor, first floor, second floor and penthouse floor. As at 31 December 2019, in addition to accommodating MCOHL, MCOHL provides office spaces and ancillary facilities (e.g. meeting facilities and car parking spaces) in the Olympic House to:

- (a) SF&OC and its affiliated companies, i.e. the SF&OC Sports Legacy Company Limited and the Hong Kong Olympic Fans Club Limited (see para. 1.6(b) and (c)) (Note 19); and
- (b) 45 NSAs and 2 sports-related organisations (i.e. the Hong Kong Sports Press Association Limited and the Hong Kong Veteran's Tennis Association Limited).

While the above tenants are not required to pay rental for their office spaces in the Olympic House, they need to pay monthly management fees to MCOHL.

2.42 According to the tenancy agreements signed between MCOHL and its tenants, MCOHL has the right to allocate office spaces to them based on the numbers of their staff. In 2019, the tenants in the Olympic House were required to pay the following rates of monthly management fees:

- (a) SF&OC and SF&OC Sports Legacy Company Limited: \$3 per square foot;

Note 19: *The Hong Kong Olympic Fans Club Limited only had one staff working within the office of the SF&OC Secretariat in the Olympic House.*

- (b) subvented NSAs (i.e. NSAs receiving block grant under LCSD's Sports Subvention Scheme): \$3 per square foot;
- (c) subvented NSAs occupying additional office spaces: \$31.3 per square foot; and
- (d) a non-subvented NSA (i.e. an NSA not receiving block grant under LCSD's Sports Subvention Scheme) and sports-related organisations: \$36.2 per square foot.

Need to sort out the long-term requirement for office spaces

2.43 In 2011, SF&OC had started to discuss with the Government about the requirement for office spaces in the Olympic House in the long term. From 2011 onwards, there were frequent discussions between SF&OC and the Government about this subject matter. SF&OC's main concerns, deliberations and suggestions were as follows:

- (a) over-crowding of NSA staff in the Olympic House was a long-lasting issue that had not been improved over the years, and the issue was becoming more appalling with the rapid expansion of NSAs and the continuously rising of head counts of NSA staff in the Olympic House;
- (b) accommodating more NSAs under one roof would promote solidarity of the sports community;
- (c) staff of NSAs working at the Olympic House tripled from around 150 in 2009 to around 450 in 2018. Of the 78 NSAs (in 2018), only 45 were allocated with office accommodation in the Olympic House;
- (d) SF&OC had earlier expressed its interest in the development of the Kai Tak Sports Park and recommended that NSAs should be prioritised in locating within the boundary of the Park and housing under one roof of the same sports complex with SF&OC for the sake of management and operational convenience; and

- (e) SF&OC subsequently proposed that, as an alternative, the Olympic House could be redeveloped to meet the needs of NSAs.

2.44 Up to early January 2020:

- (a) according to the 2018-19 Budget, the Government would conduct a technical feasibility study on the redevelopment of the Olympic House to provide office and activity space for SF&OC, its affiliated companies, NSAs and sports-related organisations; and
- (b) according to HAB, it was exploring the feasibility of temporarily relocating MCOHL and its existing tenants to other vacant premises.

2.45 Audit considers that HAB needs to, in collaboration with SF&OC, map out the way forward for the Olympic House, and devise a timetable to take forward matters arising as appropriate.

***Need to devise measures to address the problem of
over-crowding in the Olympic House***

2.46 ***Need to review allocation of office spaces to NSAs.*** In the period 2014-15 to 2018-19, MCOHL received 3 applications from 3 NSAs for office spaces in the Olympic House, and 7 applications from 5 NSAs for reallocation of office spaces (i.e. for more office spaces). However, due to full occupancy (i.e. 100%) of office spaces in the Olympic House, the NSAs' requests had not been entertained. In fact, according to SF&OC, over-crowding of NSA staff in the Olympic House has been a long-lasting issue facing by SF&OC (see para. 2.43(a)).

2.47 Audit analysed the gross floor areas and numbers of staff of NSAs located in the Olympic House in 2018-19, and found that:

- (a) there were large variations in the numbers of staff of some NSAs occupying office spaces of the same gross floor area. For example, for 3 NSAs each of which had been allocated an office space of 130 square feet, the numbers of staff occupying ranged from 1 to 6. For 2 NSAs each of which had been

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allocated an office space of 400 square feet, the numbers of staff occupying ranged from 6 to 15; and

- (b) there were, in general, large variations in the average gross floor area per staff.

Full details are shown in Table 10.

Table 10

NSAs' gross floor areas and numbers of staff in the Olympic House (2018-19)

NSA	Gross floor area of office space allocated (a) (square feet)	Gross floor area of additional office space allocated (b) (square feet)	Total gross floor area (c) = (a) + (b) (square feet)	No. of part-time staff (d)	No. of full-time staff (e)	Total no. of staff (f) = (d) + (e)	Average gross floor area per staff (g) = (c) ÷ (f) (square feet)
1	130.0	—	130.0	—	1	1	130
2	130.0	—	130.0	1	2	3	43
3	130.0	—	130.0	3	3	6	22
4	138.0	—	138.0	1	—	1	138
5	138.0	—	138.0	—	3	3	46
6	138.0	—	138.0	1	2	3	46
7	140.0	—	140.0	—	2	2	70
8	160.0	—	160.0	2	4	6	27
9	170.0	—	170.0	3	3	6	28
10	170.0	—	170.0	2	5	7	24
11	180.0	—	180.0	3	3	6	30
12	190.0	—	190.0	1	2	3	63
13	190.0	—	190.0	1	3	4	48
14	200.0	—	200.0	—	3	3	67
15	200.0	—	200.0	2	4	6	33
16	210.0	—	210.0	—	4	4	53
17	230.0	—	230.0	—	2	2	115
18	230.0	—	230.0	5	4	9	26
19	245.0	—	245.0	1	3	4	61
20	247.0	—	247.0	—	7	7	35
21	250.0	—	250.0	—	4	4	63

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Table 10 (Cont'd)

NSA	Gross floor area of office space allocated (a) (square feet)	Gross floor area of additional office space allocated (b) (square feet)	Total gross floor area (c) = (a) + (b) (square feet)	No. of part-time staff (d)	No. of full-time staff (e)	Total no. of staff (f) = (d) + (e)	Average gross floor area per staff (g) = (c) ÷ (f) (square feet)
22	276.0	—	276.0	1	5	6	46
23	300.0	—	300.0	—	4	4	75
24	200.0	110.0	310.0	1	5	6	52
25	329.0	—	329.0	2	4	6	55
26	250.0	100.0	350.0	3	4	7	50
27	350.0	—	350.0	—	7	7	50
28	250.0	130.0	380.0	—	6	6	63
29	390.0	—	390.0	—	5	5	78
30	400.0	—	400.0	—	6	6	67
31	400.0	—	400.0	—	15	15	27
32	150.0	260.0	410.0	—	3	3	137
33	250.0	160.0	410.0	1	10	11	37
34	250.0	170.0	420.0	—	4	4	105
35	420.0	—	420.0	—	4	4	105
36	450.0	—	450.0	—	9	9	50
37	470.0	—	470.0	—	10	10	47
38	490.0	—	490.0	—	7	7	70
39	535.0	—	535.0	—	10	10	54
40	610.0	—	610.0	2	10	12	51
41	600.0	200.0	800.0	—	14	14	57
42	460.0	547.0	1,007.0	—	8	8	126
43	790.0	250.0	1,040.0	—	14	14	74
44	510.0	993.8	1,503.8	—	14	14	107
45	700.0	1,611.2	2,311.2	31			75

Source: *Audit analysis of MCOHL records*

2.48 According to the tenancy agreements signed between MCOHL and NSAs, MCOHL may also reallocate any office spaces in the Olympic House to NSAs taking into consideration the numbers of their staff. To meet with NSAs' demand for office spaces (see para. 2.46) and to help ease the problem of over-crowding of NSA staff in the Olympic House, Audit considers that SF&OC needs to, in consultation with

HAB (Note 20), review the areas of office spaces in the Olympic House allocated to NSAs and reallocate the areas to the NSAs in accordance with the numbers of staff of the NSAs as appropriate. To facilitate reallocation, SF&OC also needs to, in consultation with HAB, consider standardising NSA staff's office space entitlement in the Olympic House so as to facilitate reallocation of areas of office spaces to NSAs.

2.49 *Need to improve the use of meeting venues.* The meeting venues available at the Olympic House comprise a lecture theatre of 3,535 square feet with a seating capacity of 300 seats (see Photograph 5), a board room of 1,388 square feet with a seating capacity of 30 seats (see Photograph 6) and 7 meeting rooms of 300 to 2,430 square feet with seating capacities of 15 to 120 seats (see Photograph 7 for one of the meeting rooms). The venues are open up to the local sports sector and the public at hourly charges. SF&OC and its affiliated companies, and all NSAs can use the 7 meeting rooms free of charge.

Note 20: *According to the lease signed between MCOHL and the Government Property Agency on behalf of the Government (the Olympic House is a property of the Government (see para. 1.15(b)), subject to prior written consent of HAB, MCOHL shall provide offices, associated storage and other accommodation and related services and facilities to SF&OC, NSAs and other affiliated members of SF&OC to be used solely for the purposes for the promotion and administration of sports in Hong Kong, and may make any alteration, demolition or addition in the Olympic House.*

Photograph 5

Lecture theatre in Olympic House



Source: MCOHL records

Photograph 6

Board room in Olympic House



Source: MCOHL records

Photograph 7

A meeting room in Olympic House



Source: MCOHL records

2.50 Audit examined the utilisation of the meeting venues in the Olympic House in the period 2014-15 to 2018-19. Audit found that over the period the usage rate of:

- (a) the lecture theatre was between 26% and 32%;
- (b) the board room decreased from 14% in 2014-15 to 9% in 2018-19; and
- (c) the meeting rooms was between 41% and 54%.

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Details of the usage rates are shown in Table 11.

Table 11

**Utilisation of meeting venues in the Olympic House
(2014-15 to 2018-19)**

Meeting venue	Usage rate	2014-15	2015-16	2016-17	2017-18	2018-19
Lecture theatre	Hours available for booking	5,475.0	5,475.0	5,475.0	5,475.0	5,475.0
	Hours utilised	1,399.5	1,779.0	1,625.0	1,435.5	1,493.5
	Usage rate	26%	32%	30%	26%	27%
Board room	Hours available for booking	5,475.0	5,475.0	5,475.0	5,475.0	5,475.0
	Hours utilised	761.0	715.5	891.5	644.0	506.5
	Usage rate	14%	13%	16%	12%	9%
Meeting rooms (7 rooms)	Hours available for booking	38,325.0	38,325.0	38,325.0	38,325.0	38,325.0
	Hours utilised	15,673.0	16,644.5	19,657.0	20,611.0	20,808.0
	Usage rate	41%	43%	51%	54%	54%

Source: Audit analysis of MCOHL records

Remarks: According to the agreement between HAB and MCOHL, the total number of hours available for booking of each venue was 5,475 hours (15 hours (from 8 a.m. to 11 p.m.) × 365 days).

2.51 Given the demand for office spaces in the Olympic House (see paras. 2.43 and 2.46) and the fact that utilisation of the meeting venues in the Olympic House was consistently not high, Audit considers that SF&OC needs to, in consultation with HAB, explore the feasibility of converting some meeting rooms into office spaces. Furthermore, SF&OC needs to step up its efforts in promoting the availability of the lecture theatre and the board room for public hiring.

Audit recommendations

2.52 **Audit has *recommended* that the Secretary for Home Affairs should:**

- (a) **in collaboration with SF&OC, map out the way forward for the Olympic House; and**
- (b) **devise a timetable to take forward matters arising as appropriate.**

2.53 **Audit has *recommended* that the Executive Director, SF&OC should:**

- (a) **in consultation with HAB:**
 - (i) **review the areas of office spaces in the Olympic House allocated to NSAs and reallocate the areas to the NSAs in accordance with the numbers of staff of the NSAs as appropriate;**
 - (ii) **consider standardising NSA staff's office space entitlement in the Olympic House so as to facilitate reallocation of areas of office spaces to NSAs; and**
 - (iii) **explore the feasibility of converting some meeting rooms in the Olympic House into office spaces; and**
- (b) **step up efforts in promoting the availability of the lecture theatre and the board room for public hiring.**

Response from the Government

2.54 The Secretary for Home Affairs accepts the audit recommendations in paragraph 2.52. He has said that HAB has been reviewing with SF&OC and relevant NSAs their office requirements taking into account current and future needs, and will continue to work closely with SF&OC in taking forward the redevelopment of the Olympic House.

Response from SF&OC

2.55 The President of SF&OC has said that SF&OC:

- (a) accepts the audit recommendations in paragraph 2.53; and
- (b) is already taking measures to improve the utilisation rate of the meeting venues and will follow up with HAB on the review process of NSA staff's office space entitlement.

Procurement issues

2.56 SF&OC has laid down the requirements for procurement purpose in its procurement policies and principles. For goods or services with a value:

- (a) of \$5,000 or below, at least 1 written quotation is required;
- (b) between \$5,001 and \$50,000, at least 2 written quotations are required;
- (c) between \$50,001 and \$1,300,000, at least 3 written quotations are required;
and
- (d) exceeding \$1,300,000, open tendering is required.

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2.57 Restricted tendering/quotations or single tendering/quotation may be used for procurement of goods or services if the following conditions are met:

- (a) there is a limited number of suppliers (for restricted tendering/quotations) or suppliers who are sole agents or patented distributors (for single tendering/quotation); and
- (b) prior approval is sought from the following relevant authorities (who are responsible for approving quotations and tendering stated in paragraph 2.56):
 - (i) from Manager/Section Head for goods or services with a value of \$1,000 or below;
 - (ii) from the Executive Director for goods or services with a value between \$1,001 and \$10,000;
 - (iii) from the Honorary Secretary General/Honorary Deputy Secretary General/Honorary Treasurer for goods or services with a value between \$10,001 and \$50,000;
 - (iv) from the President or two of the elected officers (i.e. the Honorary Secretary General/Honorary Deputy Secretary General/Honorary Treasurer) for goods or services with a value between \$50,001 and \$130,000;
 - (v) from the President via an elected officer (i.e. the Honorary Secretary General/Honorary Deputy Secretary General/Honorary Treasurer) for goods or services with a value between \$130,001 and \$1,300,000; and
 - (vi) from the Tender Board (consisting of at least two elected officers) for goods or services with a value above \$1,300,000.

For restricted and single tendering, the above information should be clearly recorded in the tender evaluation report for examination by the approving authority.

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Scope for improvement in procuring goods and services

2.58 Audit examined the procurement records of SF&OC and MCOHL in 2016-17 to 2018-19 (Note 21) and found that there was scope for improvement in 47 procurements of goods or services with a total amount of about \$6.6 million (see Table 12).

Table 12

**47 procurements of goods or services by SF&OC and MCOHL
(2016-17 to 2018-19)**

Procurement amount	SF&OC Secretariat		The Office of HKACEP		The Office of HKADC		MCOHL		Total	
	No.	Amount (\$)	No.	Amount (\$)	No.	Amount (\$)	No.	Amount (\$)	No.	Amount (\$)
\$5,000 or below	4	6,238	N.A.						4	6,238
\$5,001 to \$50,000	10	228,601	7	130,334	9	274,217	1	12,000	27	645,152
\$50,001 to \$1,300,000	12	1,485,994	1	68,000	—		1	180,000	14	1,733,994
Exceeding \$1,300,000	2	4,198,542	—						2	4,198,542
Total	28	5,919,375	8	198,334	9	274,217	2	192,000	47	6,583,926

Source: Audit analysis of SF&OC and MCOHL records

2.59 Audit noted that in the 47 procurements (see para. 2.58):

- (a) in 20 procurements made by the SF&OC Secretariat, the Office of HKACEP, the Office of HKADC and MCOHL, only a single quotation had been obtained as, according to SF&OC, the suppliers were sole suppliers or sole agents. Audit, however, noted that this was not always the case. For example, in 2018-19, in a procurement of a portable speaker with an amount of \$6,674 by the Office of HKACEP, the reason for the single quotation was that the supplier was the exclusive distributor of a particular

Note 21: In 2018-19, SF&OC and MCOHL made about 300 and 70 procurements respectively.

brand of audio products in Hong Kong. In Audit's view, however, there were other compatible brands of portable speakers available in the market;

- (b) in 24 procurements made by the SF&OC Secretariat, the procurements were in fact reimbursements of expenses to HKSI, NSAs and an Officer of the Board for services or goods acquired. The 24 reimbursements comprised 12 reimbursements of transportation costs (Note 22) and 12 reimbursements of air fares (Note 23) to HKSI, NSAs and an Officer of the Board. The expenses ranged from \$780 to \$256,575. In respect of reimbursements of:
 - (i) transportation costs, NSAs furnished invoices and payment receipts of the expenses to SF&OC. However, SF&OC had not laid down guidelines on reimbursements of expenses to NSAs (e.g. requesting NSAs to provide information on quotations obtained); and
 - (ii) air fares, SF&OC informed Audit in February 2020 that for such reimbursements, a maximum reimbursable amount had been agreed between SF&OC and the person/organisation to whom the reimbursement was made. Audit, however, noted that in 1 of the 12 reimbursements, the maximum reimbursable amount had not been set. Furthermore, there were no guidelines on the setting of maximum reimbursable amounts.

In March 2020, SF&OC informed Audit that since SF&OC was not involved in the engagement of service processes of NSAs, SF&OC's procurement policies and principles were not applicable. In addition,

Note 22: *The transportation costs were, for example, for transporting bulky items (e.g. bikes and windsurfing equipment) for use in international games. It was a practice that the expenses for transporting athletes' sports equipment for use in international games were borne by SF&OC. NSAs needed to submit their budgets to SF&OC, while SF&OC vetted the budgets and submitted them to HAB for approval. The expenses were first paid by NSAs, which would then seek reimbursements from SF&OC in accordance with the approved budgets.*

Note 23: *According to SF&OC, in urgent situations, or in situations where an athlete of HKSI, an athlete of an NSA, or an Officer of the Board was required to fly from a place outside Hong Kong to another place outside Hong Kong to attend a competition, the athlete (or the Officer) would first buy an air ticket and then seek reimbursement from SF&OC.*

reimbursement was considered on a case-by-case basis in each event in order to cater for different situations. In Audit's view, as SF&OC had not laid down guidelines on reimbursements of expenses to NSAs and on the setting of maximum reimbursable amounts, it was uncertain whether best value for money had been achieved in making the reimbursement;

- (c) in 2 procurements with individual amounts exceeding \$1.3 million (where tendering was required — see para. 2.56(d)) made by the SF&OC Secretariat, the procurements were for purchase of air tickets for Hong Kong, China Delegation to participate in two international games. The amounts were \$2.13 million (involving air tickets of 170 members of the delegation) and \$2.06 million (involving air tickets of 627 members of the delegation) made in 2017-18 and 2018-19 respectively. Audit noted that:
 - (i) tendering had not been conducted (see para. 2.57(b)(vi));
 - (ii) according to SF&OC, the 2 procurements were exempted from procurement requirements as they were under “sponsorship agreements” (Note 24). Audit, however, noted that the “sponsorship agreements” were in fact purchase of air tickets at a discount. In Audit's view, SF&OC could have obtained quotations from other suppliers to ensure that best value for money was achieved in making the procurements; and
 - (iii) the 2 procurements had only been approved by the Honorary Secretary General or the President of SF&OC. In view of the large amounts involved, in Audit's view, the 2 procurements should have been approved by at least two elected officers (see para. 2.57(b)(vi)). Furthermore, as a matter of propriety, approval should have been sought from the relevant authority (e.g. from at least two elected officers in these 2 procurements) for not conducting tendering; and

Note 24: *According to the procurement policies and principles, some procurements could be exempted from procurement requirements (e.g. membership fees to international bodies, procurements of goods or services which are based on the sponsorship agreement as mutually agreed by the sponsor and SF&OC).*

- (d) in 1 procurement with an amount of \$180,000 for a 2-year maintenance service of the passenger lift at the Olympic House made by MCOHL, only two instead of the required three written quotations had been obtained (see para. 2.56(c)). Furthermore, the procurement had only been approved by the two elected officers. It should have been approved by the President of SF&OC via an elected officer (see para. 2.57(b)(v)).

Audit recommendations

2.60 **Audit has *recommended* that the Executive Director, SF&OC should:**

- (a) **instead of restricting to a particular brand of product or service, consider procuring other brands of products or services of similar qualities to achieve better value for money;**
- (b) **lay down guidelines for reimbursements of expenses;**
- (c) **take measures to ensure that SF&OC procurement requirements are always followed (e.g. the required numbers of written quotations are obtained and the relevant approving authorities are sought); and**
- (d) **in compelling circumstances where tendering is not conducted as required:**
 - (i) **ensure that approval from the relevant authority is sought for not conducting tendering; and**
 - (ii) **ensure that quotations are obtained and the quotations are approved by the relevant authority.**

Response from SF&OC

2.61 The President of SF&OC has said that SF&OC:

- (a) accepts the audit recommendations; and
- (b) agrees to further enhance the procurement policy to cover the compelling circumstances and guidelines for reimbursements of expenses.

PART 3: GOVERNMENT FUNDING AND MONITORING

3.1 This PART examines:

- (a) provision of subventions by Home Affairs Bureau (paras. 3.2 to 3.18); and
- (b) monitoring by Home Affairs Bureau (paras. 3.19 to 3.39).

Provision of subventions by Home Affairs Bureau

Need to review subvented programmes with persistent operating deficits

3.2 It was stated in Financial Circular No. 9/2004 “Guidelines on the Management and Control of Government Funding for Subvented Organisations” that in examining an organisation’s budget, among other things, the Controlling Officer should examine whether the deficit budget (if any) is justified and whether the organisation is able to manage the deficit with its reserve (Note 25). If not, the Controlling Officer should take up with the Director of Bureau to consider a viable and sustainable way forward.

3.3 In respect of HAB subventions to SF&OC and MCOHL, as stated in Table 1 in paragraph 1.3 and paragraph 1.4, HAB provided funding of \$24 million to SF&OC in 2018-19. According to the 2020-21 Budget, to further promote sports development in Hong Kong, the Government will substantially increase the total subvention for SF&OC and 60 NSAs from about \$300 million to more than \$500 million a year over the next four years.

Note 25: *The reserve is the accumulated amount of surplus arising from a subvented programme. According to Financial Circular No. 9/2004, surplus may come from unspent subvention or unspent income from other sources supporting a subvented programme.*

Government funding and monitoring

3.4 Audit examined the financial positions of programmes of SF&OC and MCOHL subvented by HAB (see para. 1.14) in the period 2014-15 to 2018-19. Details are shown in Table 13.

Table 13

Financial positions of subvented programmes of SF&OC and MCOHL (2014-15 to 2018-19)

	2014-15 (\$'000)	2015-16 (\$'000)	2016-17 (\$'000)	2017-18 (\$'000)	2018-19 (\$'000)
SF&OC					
SF&OC Secretariat (Note)					
Income	7,196	7,541	7,652	7,862	7,870
Expenditure	7,229	7,563	7,749	8,239	8,458
Surplus/(Deficit)	(33)	(22)	(97)	(377)	(588)
Reserve	7	Nil			
The Office of HKACEP					
Income	3,810	3,147	2,862	2,526	2,887
Expenditure	3,764	3,194	2,949	2,341	3,041
Surplus/(Deficit)	46	(47)	(87)	185	(154)
Reserve	46	Nil		185	31
The Office of HKADC					
Income	5,076	4,567	4,817	5,355	5,892
Expenditure	5,139	4,932	4,854	5,317	6,081
Surplus/(Deficit)	(63)	(365)	(37)	38	(189)
Reserve	58	Nil		38	Nil
MCOHL					
Income	12,459	13,239	12,894	14,372	14,332
Expenditure	13,527	13,451	13,950	13,142	13,426
Surplus/(Deficit)	(1,068)	(212)	(1,056)	1,230	906
Reserve	2,374	2,162	1,106	2,336	3,242

Source: SF&OC's and MCOHL's audited accounts of their subvented programmes submitted to HAB

Note: The subvention includes the amount provided by HAB for LCSD (and disbursed through HAB to SF&OC) to cover mainly the personnel expenses of an Administrative Assistant post responsible for the organisation of community programmes.

Government funding and monitoring

3.5 Audit noted that:

- (a) throughout the period 2014-15 to 2018-19, the SF&OC Secretariat had operating deficits. The deficits had increased from \$33,000 in 2014-15 to \$588,000 in 2018-19. The SF&OC Secretariat had depleted its reserve since 2015-16. According to SF&OC, it had financed the SF&OC Secretariat's subvented programmes from its own incomes (see Note 8 to para. 1.19);
- (b) in 2015-16 and 2016-17, the Office of HKACEP, the Office of HKADC and MCOHL also had operating deficits. In these two years, the Office of HKACEP and the Office of HKADC had depleted their reserves; and
- (c) in 2017-18, the Office of HKACEP and the Office of HKADC had drawn on the one-off allocation of \$9 million provided by HAB for each of them to cover the programme expenses of the Office of HKACEP and the Office of HKADC (see para. 1.16(c)(i) and (ii)). In 2017-18, MCOHL had also drawn on the one-off allocation of \$9 million provided by HAB for MCOHL's continuous operation (see para. 1.16(c)(iii)). Furthermore, in 2017-18, MCOHL had started to charge all tenants in the Olympic House monthly management fees (see para. 2.42 and Note to Table 15 in para. 3.11(a)). In 2017-18, therefore, the Office of HKACEP, the Office of HKADC and MCOHL had operating surpluses. Nevertheless, in 2018-19, only MCOHL had a surplus, while the Office of HKACEP and the Office of HKADC had incurred deficits. In addition, the Office of HKADC had again depleted its reserve. According to SF&OC, it had financed the subvented programmes of the Office of HKACEP and the Office of HKADC from its own incomes.

3.6 Given the deficits mentioned in paragraph 3.5 and the requirements of the Financial Circular imposed on the Controlling Officers (see para. 3.2), Audit considers that HAB needs to closely monitor the financial positions of SF&OC and MCOHL, and consider a viable and sustainable way forward for SF&OC and MCOHL. In March 2020, HAB informed Audit that HAB has all along closely monitored the financial position of SF&OC (including MCOHL) and provided additional one-off allocations to SF&OC from time to time where the circumstances warranted. Having regard to SF&OC's financial situation in recent years, the Government has decided to substantially increase the recurrent subvention for SF&OC from 2020-21 onwards.

Need to disburse recurrent subventions on a timely basis

3.7 Recurrent subventions are disbursed by HAB to SF&OC and MCOHL through four equal quarterly payments. Audit examined the disbursements to SF&OC in the period 2016-17 to 2018-19 and found that the recurrent subventions were not always disbursed on a timely basis (see columns (e) and (f) in Table 14).

Table 14

**Disbursement of recurrent subventions to SF&OC
(2016-17 to 2018-19)**

Year	Date of receipt of budget from SF&OC (a)	Date of signing subvention agreement (b)	Date of disbursement (in four equal quarterly payments) stipulated in subvention agreement (c)	Date of actual disbursement (d)	Delay in disbursement (Note 1) (e) (days)	Delay in disbursement between 2016-17 and 2017-18 and between 2017-18 and 2018-19 (f) (days)
2016-17	15.01.2016	26.05.2016	10 working days after signing of agreement (i.e. on or before 10.06.2016)	02.06.2016	Nil	49 (Note 2)
			31.07.2016	08.08.2016	7	
			31.10.2016	19.10.2016	Nil	
			31.01.2017	17.02.2017	16	
2017-18	26.01.2017	06.06.2017	10 working days after signing of agreement (i.e. on or before 20.06.2017)	05.07.2017	14	12 (Note 3)
			31.07.2017	13.11.2017	104	
			31.10.2017	13.11.2017	12	
			31.01.2018	09.02.2018	8	
2018-19	17.01.2018	08.05.2018	10 working days after signing of agreement (i.e. on or before 23.05.2018)	21.05.2018	Nil	
			31.07.2018	04.09.2018	34	
			31.10.2018	19.12.2018	48	
			31.01.2019	25.03.2019	52	

Source: Audit analysis of HAB records

Note 1: The days of delay in disbursement are counted from the next day after the date of disbursement stipulated in the subvention agreement to the day before the date of actual disbursement.

Note 2: The days of delay between 2016-17 and 2017-18 are counted from 17.05.2017 (i.e. three months (i.e. a quarter) after the last quarterly payment on 17.02.2017 in 2016-17) to 4.7.2017 (i.e. the day before the date of first quarterly payment in 2017-18).

Note 3: The days of delay between 2017-18 and 2018-19 are counted from 09.05.2018 (i.e. three months (i.e. a quarter) after the last quarterly payment on 09.02.2018 in 2017-18) to 20.05.2018 (i.e. the day before the date of first quarterly payment in 2018-19).

3.8 According to SF&OC, long delays in and irregular intervals of receiving disbursements from HAB (e.g. in 2017-18, the first payment was made on 5 July 2017, while the second and third payments were not made in accordance with the dates of disbursement stipulated in the subvention agreement, but were both made, after 4 months from 5 July 2017, on 13 November 2017 — see Table 14 in para. 3.7) had caused disruptions to the cashflow of SF&OC and had hence resulted in operational difficulties. With respect to the disbursements to MCOHL, Audit noted that the dates of disbursement had not been stipulated in the funding agreements signed between HAB and MCOHL, and was therefore unable to assess whether there were any delays in disbursements.

3.9 Audit considers that HAB needs to look into SF&OC's concerns and take measures to disburse recurrent subventions to SF&OC on a timely basis. Furthermore, HAB needs to set scheduled dates of disbursement for MCOHL and ensure that recurrent subventions are disbursed to MCOHL on a timely basis. In March 2020, HAB informed Audit that pursuant to the relevant clause of the subvention agreement signed between the Government (represented by HAB) and SF&OC, the subvention shall be paid by way of instalments according to the schedule stated therein subject to the due performance by SF&OC to the Government's satisfaction. In this regard, it has been HAB's practice to vet the latest quarterly report submitted by SF&OC before making the disbursement and thus has caused some delays in the payment. HAB agrees with Audit's suggestions and will endeavour to arrange the disbursement in a timely manner in future.

Need to ensure no cross-subsidisation between subvented programmes and self-financing activities

3.10 According to Financial Circular No. 9/2004 (see para. 3.2), government subventions are provided to organisations for conducting subvented programmes. Organisations should ensure that there is no cross-subsidisation of self-financing activities by subvented programmes in money or in kind.

Government funding and monitoring

3.11 As mentioned in paragraph 1.6, other than MCOHL, SF&OC has two affiliated companies, namely the SF&OC Sports Legacy Company Limited (the Company) and the Hong Kong Olympic Fans Club Limited (the Club). The two companies, which were established in November 2015 and May 2017 respectively, are operated on a self-financing basis. Audit noted that:

- (a) the Company occupied an office space of 305 square feet in the Olympic House. Although the Company was operating on a self-financing basis, MCOHL only charged the Company a monthly management fee at subvented rate. In March 2020, SF&OC informed Audit that the background of setting up the Company was fully endorsed by HAB in 2015, even though the charging of subvented rate had not been discussed and explicitly agreed at the time of setting up the Company in 2015. In Audit's view, as the Company was operating on a self-financing basis, it should have been charged the non-subvented rate. Table 15 shows the amount of management fee which should have been paid by the Company since it occupied office space in the Olympic House in November 2015;

Table 15
Management fee payable by the Company
(2015-16 to 2018-19)

	2015-16	2016-17	2017-18	2018-19	Total
Audit's recalculation (Note) (a)	\$36,646.8	\$98,454.0	\$107,811.4	\$116,144.0	\$359,056.2
MCOHL's calculation (per tenancy agreement between MCOHL and the Company)(Note) (b)	Nil	Nil	\$3,172.0	\$10,004.0	\$13,176.0
Management fee undercharged (c) = (a) – (b)	\$36,646.8	\$98,454.0	\$104,639.4	\$106,140.0	\$345,880.2

Source: Audit analysis of MCOHL records

Note: MCOHL charged the following management fees for tenants in the Olympic House (see also para. 2.42):

Period	SF&OC and affiliated company and subvented NSAs (per square foot)	Subvented NSAs occupying additional office spaces (per square foot)	Non-subvented NSAs and sports-related organisations (per square foot)
<i>17.11.2015 (date of occupation of office space by the Company) to 6.4.2017</i>	<i>Nil (MCOHL started to charge management fee in 2017-18)</i>	\$22.9	\$26.9
<i>7.4.2017 to 30.11.2018</i>	\$2.6	\$25.5	\$29.5
<i>1.12.2018 to 31.3.2019</i>	\$3.0	\$31.3	\$36.2

- (b) over the years, in addition to the under-charging of management fee, there was no apportionment of office overheads (e.g. salaries of managerial staff responsible for the operation of both the Company and subvented programmes, and other administrative and operational expenses) between the Company and subvented programmes; and
- (c) the Club had one staff working within the office of the SF&OC Secretariat in the Olympic House. There was no apportionment of office overheads between the Club and subvented programmes.

Government funding and monitoring

3.12 Audit considers that SF&OC needs to, in consultation with HAB, rectify the inadequacies relating to the charging of management fee on the Company and the non-apportionment of office overheads between the Company and subvented programmes, and between the Club and subvented programmes. SF&OC also needs to take measures to ensure that there is no cross-subsidisation between subvented programmes and self-financing activities in future.

Need to update the list of subvented organisations

3.13 According to Financial Circular No. 9/2004, the Directors of Bureaux are required to notify the Financial Services and the Treasury Bureau (FSTB) of additions to/deletions from the list of organisations receiving recurrent funding from the Government. This is to ensure that all subvented organisations comply with the requirements under the Financial Circular.

3.14 Audit noted that while MCOHL, which receives HAB's recurrent subventions and has entered into a separate subvention agreement with the Government (see para. 1.15(b)), had not been included in the list (see para. 3.13). Audit considers that HAB needs to notify FSTB to include MCOHL in the list. In March 2020, HAB informed Audit that as pointed out by Audit, pursuant to Financial Circular No. 9/2004, Directors of Bureaux are required to notify FSTB of additions to/deletions from the list of organisations receiving recurrent funding from the Government (i.e. Annex 1 of the Circular). While noting that not all organisations receiving recurrent funding from the Government are explicitly spelt out in Annex 1 of the Circular (e.g. some subvented organisations are merely stated as "Major Performing Arts Groups", "Welfare NGOs (i.e. non-governmental organisations)", etc.), HAB will consult FSTB on Audit's suggestion and follow up accordingly.

Audit recommendations

3.15 **Audit has recommended that the Secretary for Home Affairs should:**

- (a) **continue to closely monitor the financial positions of SF&OC and MCOHL;**
- (b) **ensure that recurrent subventions are disbursed to SF&OC on a timely basis;**

- (c) set scheduled dates of disbursement for MCOHL and ensure that recurrent subventions are disbursed to MCOHL on a timely basis; and
 - (d) ensure that FSTB is consulted for inclusion of MCOHL in the list of organisations receiving recurrent funding from the Government, and follow up accordingly.
- 3.16 **Audit has *recommended* that the Executive Director, SF&OC should:**
- (a) in consultation with HAB, rectify the inadequacies relating to the charging of management fee on SF&OC Sports Legacy Company Limited (the Company) and the non-apportionment of office overheads between the Company and subvented programmes, and between the Hong Kong Olympic Fans Club Limited and subvented programmes; and
 - (b) take measures to ensure that there is no cross-subsidisation between subvented programmes and self-financing activities in future.

Response from the Government

3.17 The Secretary for Home Affairs agrees with the audit recommendations in paragraph 3.15. He has said that:

- (a) having regard to the financial positions of SF&OC, HAB has decided to substantially increase its recurrent subvention from \$20 million in 2019-20 to \$40.6 million in 2020-21 and will continue to closely monitor its financial positions in the years to come;
- (b) HAB will review the payment procedure and endeavour to disburse the recurrent subvention to SF&OC and MCOHL in a timely manner; and
- (c) in respect of the audit recommendation to include MCOHL in the list of organisations receiving recurrent subvention from the Government, HAB will consult FSTB and take follow-up action accordingly.

Response from SF&OC

3.18 The President of SF&OC has said that SF&OC:

- (a) accepts the audit recommendations in paragraph 3.16; and
- (b) will undertake to review the management fee arrangement with HAB.

Monitoring by Home Affairs Bureau

Need to ensure timely submission of reports

3.19 According to the subvention agreement signed between HAB and SF&OC (see para. 1.15(a)), SF&OC undertakes to submit the following documents to HAB:

- (a) ***Quarterly reports.*** Reports should be submitted within three months after the end of each quarter to report on SF&OC's incomes and expenses, achievement of performance indicators stipulated in the subvention agreements (see Appendix F), problems encountered, remedial measures taken to tackle the problems, and other information as required by HAB; and
- (b) ***Annual audited accounts.*** Audited accounts of SF&OC are required to be submitted on or before 30 September after the end of a subvention year (i.e. from April to March in the ensuing year).

3.20 According to the subvention agreement signed between HAB and MCOHL (see para. 1.15(b)), MCOHL undertakes to:

- (a) submit to HAB:
 - (i) on a quarterly basis, a statement of management accounts on or before the 20th day of the month following the end of a quarter;
 - (ii) unaudited accounts on or before 30 June after the end of a subvention year;

- (iii) audited accounts on or before 30 September after the end of a subvention year; and
 - (iv) a report on the achievement of performance indicators stipulated in the subvention agreement (see Appendix F) on or before 30 June after the end of a subvention year; and
- (b) make public disclosure of the remuneration of staff of the top three tiers of MCOHL in its annual report.

3.21 Under the aforementioned subvention agreements (see paras. 3.19 and 3.20), the Government shall be entitled to terminate the subvention agreement if SF&OC or MCOHL is in breach of any of the terms and conditions of the subvention agreement or fails to fulfill the obligations under the agreements.

3.22 Audit examined the submission of accounts and reports by SF&OC and MCOHL in the period 2014-15 to 2018-19 and found that:

- (a) MCOHL was frequently not punctual in submitting accounts (see Table 16). In March 2020, SF&OC informed Audit that MCOHL would not be able to submit management accounts within 20 days following the end of a quarter as it took some time for accounting work to be done; and HAB also informed Audit that HAB understood that there were practical difficulties for MCOHL to submit the quarterly management accounts on or before the 20th day of the month following the end of a quarter. HAB will follow up the matter with MCOHL including the consideration of extension of the deadline for submission of the accounts, and revise the relevant requirement in the subvention agreement as appropriate; and

Table 16

**Submission of accounts by MCOHL
(2014-15 to 2018-19)**

	Time for submission	2014-15	2015-16	2016-17	2017-18	2018-19
		(days of delay)				
Management accounts						
April to June	On or before 20th day of the month following the end of a quarter	5	No delay	5	No delay	5
July to September		5	No delay	5	No delay	5
October to December		No delay	No delay	5	5	5
January to March		17	6	5	5	5
Audited accounts	On or before 30 September after the end of a subvention year	No delay	No delay	No delay	No delay	31

Source: Audit analysis of HAB records

- (b) in the period 2014-15 to 2017-18, MCOHL did not submit any reports on its achievement of performance indicators to HAB. Upon Audit's enquiries, MCOHL submitted its achievement of performance indicators for 2018-19 to HAB. Audit further noted that despite the non-submission of the reports in the period 2014-15 to 2017-18, HAB had not taken any follow-up actions to demand the submission of the reports.

3.23 Audit considers that MCOHL needs to take measures to ensure that all the required accounts and reports are submitted in accordance with the time schedules agreed with HAB. On the other hand, HAB needs to ensure that follow-up actions are taken to consider appropriate extension of the deadline for submission of management accounts by MCOHL. HAB also needs to monitor the submission of accounts and reports by MCOHL and instigate follow-up actions where warranted.

Need to monitor achievements of performance indicators

3.24 Audit examined the reports submitted by SF&OC and MCOHL to HAB in the period 2014-15 to 2018-19, and found that of a total of 15 performance indicators set annually for SF&OC and 6 performance indicators set annually for MCOHL (see Appendix F), the Office of HKADC and MCOHL had failed to achieve some of the stipulated performance indicators (see Tables 17 and 18). Both SF&OC and MCOHL had not provided any explanations for not achieving the performance indicators. There was also no evidence indicating that HAB had taken any follow-up actions.

Table 17

**Performance indicators not achieved by SF&OC
(2014-15 to 2018-19)**

Year	Performance indicator	Target achievement (a) (No.)	Actual achievement (b) (No.)	Under-achievement	
				(c) = (b) – (a) (No.)	(d) = (c)/(a) × 100% (%)
The Office of HKADC					
2014-15	Attending international conference or training courses	3 sessions	2 sessions	1 session	33 %
2015-16	Producing annual reports on anti-doping activities	39 reports	32 reports	7 reports	18 %
2016-17	Producing annual reports on anti-doping activities	40 reports	32 reports	8 reports	20 %
2017-18	Producing annual reports on anti-doping activities	40 reports	37 reports	3 reports	8 %
2018-19	Monitoring whereabouts submission from athletes (see para. 2.36(b))	313 athletes	267 athletes	46 athletes	15 %

Source: Audit analysis of SF&OC records

Table 18

**Performance indicator not achieved by MCOHL
(2014-15 to 2018-19)**

Year	Performance indicator	Target achievement (a) (No.)	Actual achievement (b) (No.)	Under-achievement	
				(c) = (b) – (a) (No.)	(d) = (c)/(a) × 100% (%)
2018-19 (Note)	Convening one Management Committee meeting annually	1 meeting	Nil	1 meeting	100%

Source: Audit analysis of MCOHL records

Note: In the period 2014-15 to 2017-18, MCOHL had not submitted any reports on achievement of performance indicators to HAB (see para. 3.22(b)).

3.25 Audit considers that HAB needs to require SF&OC and MCOHL to provide explanations for any under-achievements of performance indicators. In circumstances where no explanations are provided or the explanations provided are not satisfactory, HAB needs to take follow-up actions with SF&OC and MCOHL.

Need to improve the reporting of achievements

3.26 In examining the achievements against performance indicators reported by SF&OC and MCOHL in 2018-19, Audit found that there was room for improvement in their reporting of the achievements. Details are shown in Table 19.

Table 19

**Achievements against performance indicators reported by SF&OC and MCOHL
(2018-19)**

	Performance indicator	Target achievement	Reported achievement (a)	Achievement ascertained by Audit (b)	Difference between reported achievements and achievements ascertained by Audit (c) = (a) – (b)	Reason for difference
The Office of HKACEP	Career <ul style="list-style-type: none"> • Providing job placement and internships 	25 job placements	56 job placements	29 job placements	27 job placements (48%)	The reported achievement included the number of job placements under a programme not financed by HAB subvention
The Office of HKADC	Testing <ul style="list-style-type: none"> • Conducting anti-doping tests 	502 tests	560 tests (Note)	492 tests	68 tests (12%)	The reported achievement included unsuccessful attempts for conducting anti-doping tests
MCOHL	Attaining a usage rate of meeting room facilities (out of 49,275 room-hours)	32%	46%	42%	4% (9%)	The reported achievement included hours of meeting room facilities booked by hirers who subsequently did not show up

Source: Audit analysis of SF&OC and MCOHL records

Note: As shown in Table 9 in paragraph 2.37, the figure was 561 (492 plus 69) tests. SF&OC reported 560 tests to HAB.

Government funding and monitoring

3.27 To ensure clarity and transparency of performance information, Audit considers that SF&OC needs to improve the reporting of achievements of performance indicators to HAB. For the performance indicator of providing job placement and internships, SF&OC needs to report separately the number of job placements achieved under HAB subvented programmes and non-subvented programmes. For the performance indicator of conducting anti-doping tests, SF&OC needs to distinguish between successful and unsuccessful attempts for conducting anti-doping tests.

Need to disclose staff remuneration

3.28 Under the subvention agreement signed between HAB and MCOHL, MCOHL is required to make public disclosure of the remuneration of staff of the top three tiers of MCOHL in its annual report (see para. 3.20(b)).

3.29 Audit examined the annual reports (Note 26) submitted by MCOHL to HAB in the period 2014-15 to 2018-19 and found that the remuneration of the staff of the top three tiers of MCOHL had not been disclosed in MCOHL's annual reports. There was no evidence indicating that HAB had taken any follow-up actions on the non-disclosure.

3.30 Audit reviewed the amount of remuneration paid to the staff of the top three tiers of MCOHL in 2018-19 and found that the remuneration amounted to \$3.25 million (see Table 20).

Note 26: *MCOHL's annual reports are available on the website of MCOHL.*

Table 20

**Remuneration of staff of top three tiers of MCOHL
(2018-19)**

Staff	No. and post of staff	Annual salary (\$)
Top tier	1 manager	887,859
Second tier	2 assistant managers	974,152
Third tier	2 operation officers and 2 administrative assistants	1,391,983
Total		3,253,994

Source: Audit analysis of MCOHL records

3.31 Audit considers that MCOHL needs to make public disclosure of the remuneration of staff of the top three tiers of MCOHL. HAB, on the other hand, needs to ensure that MCOHL makes public disclosure of the aforesaid information.

3.32 Audit also noted that according to the Administration Wing Circular Memorandum No. 11/2018 “Guidelines for the Control and Monitoring of Remuneration Practices in Respect of Senior Staff in Subvented Organisations” issued by the Director of Administration in 2018, subvented organisations which on average receive more than 50% of their operating income from the Government in a four-year period immediately before that scheduled year of review and the amount averaged \$10 million or more a year over the preceding four-year period are required to review the number, ranking and remuneration of staff at their top three tiers and submit to their relevant Director of Bureau reports on the review findings regularly. According to SF&OC’s records, in the period 2015-16 to 2018-19 (i.e. a four-year period), average Government’s recurrent subvention accounted for 35% of the average total operating income of SF&OC, and therefore SF&OC was not required to make the disclosure. In view of the increase in Government subvention for SF&OC over the next four years (see para. 3.3), Audit considers that HAB needs to keep in view the proportion between the Government’s recurrent subvention provided to SF&OC and the total operating income of SF&OC. In cases where the proportion is increased to more than 50% in future, HAB needs to require SF&OC to make public disclosure of staff of the top three tiers of SF&OC.

Scope for improvement in implementing the best practices in BPR

3.33 BPR issued by ICAC (see para. 2.4) covers board governance, integrity management, selection of athletes (which covers transparency issues as mentioned in paras. 2.4 to 2.9) and administration of NSAs.

3.34 As the issue of BPR, according to HAB, is also a specific measure for SF&OC to enhance its governance (see para. 2.6) and given that, according to ICAC, good governance is the cornerstone of sports development (see para. 2.4), Audit examined the extent to which SF&OC had implemented the best practices as laid down in BPR. Audit found that SF&OC could do more to implement the best practices. Table 21 shows that, up to 29 February 2020, 13 of the 73 best practices were pending implementation by SF&OC.

Table 21

**Best practices in BPR pending implementation by SF&OC
(29 February 2020)**

Best practice category (Note 1)	Total no. of best practices in the category	Best practices pending implementation
Board governance (e.g. accountability and transparency of the executive board)	30	1. Establish an Audit Committee to oversee all internal and external auditing activities
		2. Appoint an independent Board member, who is neither the chairman of the Board nor other functional committee, as the chairperson of the Audit Committee
		3. Appoint at least one person with expertise in the accounting or auditing profession as a member of the Audit Committee
		4. Stipulate the requirements, if any, for members of various functional committees, e.g. finance or accounting background for finance committee
		5. Lay down the channels by which an eligible Board member may express his interest of participation and any restriction on the maximum number of functional committees a Board member may be appointed as a member
		6. Lay down the role, term of appointment, expertise requirement for co-opt members of various committee (under normal circumstances, no voting right is attached to a co-opt member), and restriction (e.g. desirable tenure of service)
		7. Stipulate the proportion or maximum number of co-opt members in a functional committee
		8. Formulate the nomination and appointment mechanism for co-opt members, including the authority for nomination and appointment
		9. Conduct self-evaluation of the level of compliance with good governance practices, provide justifications for not being able to comply with the good practices and alternative measures adopted, if any, to address the concerns

Table 21 (Cont'd)

Best practice category (Note 1)	Total no. of best practices in the category	Best practices pending implementation
Integrity management (e.g. demonstration of commitment to integrity management, issue of code of conduct)	23	1. Conduct capacity building sessions for newly appointed Board members (including functional committee members and co-opt members) and staff to familiarise them with the code and related legislations on anti-corruption. The ICAC stands ready to provide assistance
Management of coaches and umpires	N.A. (Note 2)	
Administration of membership (e.g. laid-down admission and termination of membership system)	10	1. Determine and publicise the modes of admission for various membership categories, e.g. open application, and/or nomination by incumbent members
		2. Publicise the admission requirements for various membership categories, e.g. age, minimum membership in an applicant club, observation period, and fees (which should have taken into account, among other considerations, affordability of members of the general public and reasonableness from the public's perspective)
		3. Establish and publicise the time pledge for processing requests for membership admission
General administration (e.g. segregation of duties, supervisory monitoring)	10	Nil
Useful resources	N.A. (Note 3)	

Source: Audit analysis of SF&OC records and audit enquiries with SF&OC staff

Note 1: The best practices on selection of athletes are covered in Table 5 in paragraph 2.7.

Note 2: It relates to the qualification and registration mechanism of coaches and umpires. SF&OC does not manage coaches and umpires for training courses or competitions.

Note 3: It provides a list of agencies from which NSAs may seek assistance or advice on their operations, but does not contain any best practices.

3.35 To enhance the operation and governance of SF&OC, Audit considers that SF&OC needs to make further efforts to implement the best practices set out in BPR. Furthermore, as BPR is a specific measure for SF&OC to enhance its governance and good governance is the cornerstone of sports development (see para. 3.34), HAB needs to encourage SF&OC to implement the best practices and follow up the implementation of such practices by SF&OC.

Audit recommendations

3.36 **Audit has *recommended* that the Secretary for Home Affairs should:**

- (a) **ensure that follow-up action is taken to consider appropriate extension of the deadline for submission of management accounts by MCOHL, and revise the relevant agreement in the subvention agreement as appropriate;**
- (b) **monitor the submission of accounts and reports by MCOHL and instigate follow-up actions where warranted;**
- (c) **require SF&OC and MCOHL to provide explanations for any under-achievements of performance indicators. In circumstances where no explanations are provided or the explanations provided are not satisfactory, take follow-up actions with SF&OC and MCOHL;**
- (d) **ensure that MCOHL makes public disclosure of the remuneration of staff of the top three tiers of MCOHL;**
- (e) **given that the Government will substantially increase subvention for SF&OC over the next four years (see para. 3.3), keep in view the proportion between the Government's recurrent subvention provided to SF&OC and the total operating income of SF&OC. In cases where the proportion is increased to more than 50% in future, require SF&OC to make public disclosure of staff of the top three tiers of SF&OC;**
- (f) **encourage SF&OC to adopt the best practices laid down in BPR; and**
- (g) **follow up the implementation of the best practices by SF&OC.**

Government funding and monitoring

- 3.37 **Audit has *recommended* that the Executive Director, SF&OC should:**
- (a) **take measures to ensure that all the required accounts and reports of MCOHL are submitted in accordance with the time schedules agreed with HAB;**
 - (b) **improve the reporting of achievements of performance indicators to HAB;**
 - (c) **make public disclosure of the remuneration of staff of the top three tiers of MCOHL; and**
 - (d) **make further efforts to implement the best practices laid down in BPR.**

Response from the Government

3.38 The Secretary for Home Affairs agrees with the audit recommendations in paragraph 3.36. He has said that:

- (a) in respect of the submission of accounts by MCOHL, HAB will review the practicality of the deadline for submission and consider extending the deadline as appropriate by revising its subvention agreement with MCOHL;
- (b) HAB will also more closely monitor the submission of accounts and reports by SF&OC and MCOHL and require them to provide explanation if there are any under-achievements of performance indicators;
- (c) as for the disclosure of remuneration of staff of the top three tiers, HAB will ensure that both SF&OC and MCOHL would make the appropriate disclosure when the proportion of Government subvention to them exceeds 50% of their total operating income; and

- (d) HAB will provide SF&OC with a time-limited funding of \$5 million per year for 5 years starting 2020-21 to support a review by SF&OC of the operation and internal monitoring mechanism of NSAs with an aim to enhancing their corporate governance as well as the transparency of their operation. As part of this exercise, HAB will encourage SF&OC to set a good example and adopt the best practices set out in BPR.

Response from SF&OC

3.39 The President of SF&OC has said that SF&OC:

- (a) accepts the audit recommendations in paragraph 3.37; and
- (b) will improve the submission schedules and will follow up to implement the best practices laid down in BPR as far as practicable given its corporate structure.

PART 4: GOVERNANCE ISSUES

4.1 This PART examines the governance issues of SF&OC, focusing on:

- (a) management of meetings and attendance (paras. 4.2 to 4.18); and
- (b) management of potential conflicts of interest (paras. 4.19 to 4.31).

Management of meetings and attendance

4.2 As mentioned in paragraphs 1.10 and 1.11, SF&OC is governed by the Board, which consists of 15 Officers. The Board is supported by 29 committees, of which 27 committees are standing committees and 2 committees are non-standing committees (hereinafter the Board and the committees are collectively referred to as “Board/committees” unless otherwise stated). Each committee has dedicated functions (see Appendix C). As at 31 December 2019, the 27 standing committees had a total of 249 members.

4.3 On the frequency of meetings and the quorum, various requirements have been laid down:

- (a) ***Overall frequency of meetings.*** According to the subvention agreement signed between the Government and SF&OC (see para. 1.15(a)), every year, SF&OC should hold a total of at least 12 official meetings (comprising general meetings of members (see (b) below), meetings of the Board and meetings of committees (see (c) below));
- (b) ***Frequency of member meetings.*** According to SF&OC’s Articles of Association, a general meeting of members (i.e. 82 members — see para. 1.9) should be held every year (i.e. annual general meeting). The Officers of the Board (see para. 1.10) or members may call further general meetings besides the annual one;

(c) ***Frequency of Board and committee meetings.*** According to SF&OC's Articles of Association and its By-laws:

- (i) for the Board, meetings shall take place at least once every three months; and
- (ii) for committees, meetings shall take place as and when required unless otherwise specified. In this regard, 7 committees have laid down their estimated frequency of meetings. According to the records of these 7 committees:
 - for 1 committee (i.e. Hong Kong Athletes Career and Education Programme Committee), it is estimated that meetings are held quarterly (i.e. 4 meetings in 12 months);
 - for 5 committees, it is estimated that meetings are held once every 6 months (i.e. 2 meetings in 12 months). The committees comprise HKADC, Hong Kong Olympic Academy, Membership Affairs Committee, Olympic House Management Committee, and Public Relations and Corporate Communication Committee; and
 - for 1 committee (i.e. Athletes Committee), it is estimated that meetings are held at least once a year (i.e. 1 meeting in 12 months); and

(d) ***Quorum.*** According to SF&OC's Articles of Association and its By-laws:

- (i) for the general meeting of members, the quorum is ten;
- (ii) for the Board, the quorum may be fixed from time to time by a decision of the Officers, but it must be at least five; and
- (iii) for committees, the quorum is four unless otherwise specified.

Need to review the frequency of committee meetings

4.4 In the period 30 March 2017 (date of incorporation of SF&OC — Note 27) to 31 December 2019, SF&OC held a total of 65 official meetings, comprising 60 meetings of the Board/committees and 5 general meetings of members. Against the SF&OC requirements (see para. 4.3), Audit examined the meetings held and noted that, during the period, for the 7 committees which had laid down their estimated frequency of meetings (see para. 4.3(c)(ii)):

- (a) in 1 committee, the number of meetings held was equal to the estimated number (i.e. 6 meetings to be held in the period); and
- (b) in 6 committees, the numbers of meetings held were less than the estimated numbers:
 - (i) of the 38 meetings estimated to be held for the 6 committees, only 14 meetings were held, falling short of the estimated number by 24 (63%) meetings; and
 - (ii) 3 of the 6 committees did not hold any meetings.

Table 22 shows, for the 7 committees, the estimated number of meetings and actual number of meetings.

Note 27: *On 30 March 2017, SF&OC was incorporated under the Companies Ordinance as a company limited by guarantee (see para. 1.5).*

Table 22

**Estimated and actual number of meetings of 7 committees
(30 March 2017 to 31 December 2019)**

Committee	Laid-down frequency (no. of meetings estimated to be held in 12 months) (a)	No. of meetings in the 33-month period (i.e. 30.3.2017 to 31.12.2019)		Actual no. falling short of estimated no. (no. of meetings) (d) = (b) – (c)
		Estimated	Actual	
		(b) = (a) ÷ 12 × 33	(c)	
Actual number of meetings equal to estimated number				
Membership Affairs Committee	2	6	6	0
Sub-total		6	6	0
Actual number of meetings falling short of estimated number				
Hong Kong Athletes Career and Education Programme Committee	4	11	8	3
HKADC	2	6	5	1
Hong Kong Olympic Academy		6	0	6
Olympic House Management Committee		6	0	6
Public Relations and Corporate Communication Committee		6	0	6
Athletes Committee	1	3	1	2
Sub-total		38	14	24
Total		44	20	24

Source: Audit analysis of SF&OC records

4.5 For the other 22 committees (i.e. 29 (see para. 4.2) minus 7) which had not laid down their frequency of meetings, according to SF&OC requirements, meetings shall take place as and when required (see para. 4.3(c)(ii)). However, Audit noted that in the period 30 March 2017 to 31 December 2019, no meetings were held for 11 of the 22 committees (Note 28). While some of these 11 committees might not have the need to hold meetings (e.g. Hong Kong Anti-Doping Appeal Panel as there were no appeal cases (Note 29)), these 11 committees included those dealing with corporate affairs (e.g. Strategic Management Committee) as well as those dealing with sports and promotion matters (e.g. Women and Sports Committee). Appendix G shows the numbers of meetings held by the Board/committees in the period 30 March 2017 to 31 December 2019.

4.6 Upon enquiry, SF&OC informed Audit in March 2020 that:

- (a) regarding those committees whose actual number of meetings was less than the estimated number (see para. 4.4(b)):
 - (i) there were frequent circulation of papers to committee members for them to execute their functions. In the period 30 March 2017 to 31 December 2019, 7 papers were circulated to the Hong Kong Olympic Academy, and 1 paper was circulated to the Athletes Committee; and
 - (ii) for the Athletes Committee, considering that most of its members elected were current athletes or coaches who were actively engaged in overseas training or competition most of the time, the Committee was operating with most of its communication taking place via a mobile messaging application; and
- (b) regarding those committees which had not laid down their frequency of meetings (see para. 4.5), some issues concerning the committees could be dealt with effectively at regular meetings of the Board. In the period

Note 28: *For the other 11 committees which held meetings (i.e. 22 minus 11 committees which did not hold meetings), in the period 30 March 2017 to 31 December 2019, the number of meetings ranged from 1 to 5.*

Note 29: *According to SF&OC, for the Hong Kong Anti-Doping Appeal Panel and the Hong Kong Anti-Doping Disciplinary Panel, hearings were conducted instead of meetings.*

30 March 2017 to 31 December 2019, for discussion by the Board, the committees tabled and presented a number of reports at Board meetings:

- (i) the Finance Committee tabled 11 reports (i.e. “report of SF&OC accounts”); and
- (ii) the Women and Sports Committee tabled 1 report (i.e. “report of women’s involvement in NSAs”).

4.7 Meetings are an important forum where ideas can be exchanged and issues can be discussed in an interactive manner. This important forum should be available to both the Board and committees. While noting SF&OC’s reasons (see para. 4.6), in Audit’s view, the number of meetings of individual committees might not be entirely adequate (e.g. meetings held by 6 committees fell short of the estimated number by 63% — see para. 4.4(b)(i)). In particular, the many committees (see paras. 4.4(b)(ii) and 4.5) which did not hold meetings in the period 30 March 2017 to 31 December 2019 could be a cause for concern.

4.8 Audit considers that SF&OC needs to review the frequency of meetings of individual committees to ensure that the functions of the Board/committees are effectively carried out and, having regard to the review, help individual committees set an appropriate frequency of meetings where necessary.

Room for improving attendance at meetings

4.9 For the Board and the 15 committees (Note 30) which held meetings in the period 30 March 2017 to 31 December 2019, Audit examined members’ attendance at the meetings held. The examination indicated that, in the period, the average attendance of the Board was 77% and those of individual committees ranged from 53% to 100% (see Appendix H). Audit noted a decrease in attendance at meetings of the Board and 2 committees:

Note 30: *Of the 29 committees (see para. 4.2), 3 (see para. 4.4(b)(ii)) and 11 (see para. 4.5) did not hold meetings in the period 30 March 2017 to 31 December 2019.*

- (a) ***The Board.*** The attendance rate decreased from 83% in 2017 to 76% in 2019;
- (b) ***HKADC.*** The attendance rate decreased from 91% in 2017 to 73% in 2019; and
- (c) ***Hong Kong Sports Stars Awards Judging Panel.*** The attendance rate decreased from 100% in 2018 to 75% in 2019.

4.10 Meetings are an important and interactive forum for deliberating important business, it is crucial that members can contribute to the forum through their attendance. In Audit's view, the decrease in attendance at meetings was less than satisfactory.

4.11 Audit considers that SF&OC needs to ascertain the reasons for the decrease in rates of attendance at meetings of the Board and at those of individual committees, and take measures to improve attendance at meetings.

Need to take measures to encourage attendance

4.12 For the 15 committees (see para. 4.9) which held meetings in the period 30 March 2017 to 31 December 2019, Audit further examined individual members' attendance at the meetings. Audit noted that, each year, there were members who did not attend any meetings of the committees. The number of such members totalled 61 (see Table 23).

Table 23

**Number of members of 15 committees who did not attend any meetings
(30 March 2017 to 31 December 2019)**

	2017 (since 30 March)	2018	2019
Total no. of members (Note)	92	124	111
No. of members who did not attend meetings	24	20	17
		61	

Source: Audit analysis of SF&OC records

Note: This was the total membership of the 15 committees. For each of the 15 committees, the membership was in the range of 3 to 15 persons.

4.13 In Audit's view, the number of members (see Table 23 above) not attending any meetings was not conducive to the effective functioning of the Board/committees.

4.14 Audit considers that SF&OC needs to ascertain the reasons for the non-attendance of individual members at meetings, and step up efforts to encourage members to attend meetings. Efforts could include, for example, reminding members from time to time (including at the time of appointing/reappointing members) of the importance of attending meetings, and ascertaining whether members have difficulties in attending meetings and providing assistance to them (e.g. rescheduling the meeting dates) where possible.

Need to regularise informal meetings

4.15 Audit examined, for the period 30 March 2017 to 31 December 2019, records of meetings of the Board and 3 committees (Note 31). The records examined comprised agenda, minutes of meetings and declaration of interest forms (see paras. 4.20 to 4.23 for audit observations on declaration of interest forms). Audit found one case where the agenda and minutes had not been prepared for the meeting (see Case 3).

Note 31: *The 3 committees are International Multi-Sports Games Selection Committee, Membership Affairs Appeal Panel, and Membership Affairs Committee.*

Case 3

**A meeting regarded as informal by SF&OC
(Membership Affairs Appeal Panel)**

1. The Membership Affairs Appeal Panel (the Panel) hears and determines issues arising from appeals relating to membership of SF&OC. The Panel convenes meetings as and when required.
2. In August 2018, SF&OC sent a notice of meeting via e-mails to members of the Panel. The meeting was held on 13 September 2018 (see para. 4 below).
3. Upon enquiry, SF&OC informed Audit in January, February and March 2020 that the meeting did not have an agenda, and that minutes of the meeting had not been prepared because the meeting was only an informal one:
 - (a) the e-mails sent by SF&OC were not an official notice of meeting, but an invitation for informal briefing. Actually, a lawyer had been appointed as the Secretary to serve the Panel. The SF&OC would not be the one to issue an official notice of meeting for the Panel;
 - (b) the aim of the briefing was to allow SF&OC to brief members and the Secretary on the case background and to serve relevant documents for their perusal;
 - (c) without discussing the case details, the Panel took the opportunity to work out the working direction, timelines and schedule before starting to hear the appeal; and
 - (d) as the briefing was not a formal meeting, no records were kept for it.
4. Nevertheless, in October 2018, in a meeting of the Board, it was reported that the first meeting of the Panel was conducted on 13 September 2018 (i.e. the meeting mentioned in para. 2 above), and that the second meeting would be held later.
5. In December 2018, the appellant withdrew the case. Further meetings of the Panel were not held. The meeting of 13 September 2018 was the only meeting held in the period 30 March 2017 to 31 December 2019.

Audit comments

6. It was not entirely clear whether or not the meeting of 13 September 2018 was an informal one. In particular, matters were considered (see para. 3(c) above), and the Board was informed that the meeting was the first meeting of the Panel (see para. 4 above).

Source: Audit analysis of SF&OC records

4.16 Audit considers that to enhance transparency and accountability, SF&OC needs to review the need for regularising any practices of holding informal Board/committee meetings.

Audit recommendations

4.17 Audit has *recommended* that the Executive Director, SF&OC should:

- (a) review the frequency of meetings of individual committees to ensure that the functions of the Board/committees are effectively carried out;
- (b) having regard to the review, help individual committees set an appropriate frequency of meetings where necessary;
- (c) ascertain the reasons for the decrease in rates of attendance at meetings of the Board and at meetings of individual committees, and take measures to improve attendance at meetings;
- (d) ascertain the reasons for the non-attendance of individual members at meetings, and step up efforts to encourage members to attend meetings; and
- (e) review the need for regularising any practices of holding informal meetings for the Board/committees.

Response from SF&OC

4.18 The President of SF&OC has said that SF&OC:

- (a) accepts the audit recommendations; and
- (b) will review the meeting frequency and will take measures to improve the attendance rate, where appropriate.

Management of potential conflicts of interest

4.19 SF&OC has laid down requirements on the management of potential conflicts of interest (Note 32). The key requirements are:

- (a) ***The Board.*** Any Officer who is in any way having an interest in any arrangements of SF&OC:
 - (i) shall declare the nature of his/her interest at the earliest possible instance; and
 - (ii) shall not take part in any discussion or vote on the arrangements; and
- (b) ***Committees.*** When a committee chairperson/vice-chairperson/member is involved in scenarios of potential conflicts of interest of a discussion item:

Note 32: *The requirements are laid down in various documents of SF&OC, namely, “Articles of Association”, “Summary of handling possible conflict of interest scenarios” and “SF&OC Code of Conduct”.*

- (i) the committee is required to make rulings on the interest (e.g. if the member may speak or vote on the matter — Note 33); and
- (ii) all deliberations and justifications for the decisions made and follow-up actions (e.g. stop circulating meeting papers to the member concerned) must be properly documented.

Need to expedite implementation of an enhancement practice

4.20 Against the requirements (see para. 4.19), SF&OC has adopted practices to facilitate declaring interests. According to SF&OC:

- (a) committee chairpersons/vice-chairpersons/members are advised to verbally make declarations of interest at suitable junctures of meetings. These verbal declarations would be recorded in minutes of the meetings; and

Note 33: *If the interest of the committee chairperson/vice-chairperson/member (i.e. interested person) involves an organisation relating to the discussion item, the actions to be taken are:*

- (a) *where the interested person is an elected officer of the organisation (i.e. holding a post through election within the organisation), the interested person:*
 - (i) *should withdraw from the meeting if he/she is the committee chairperson; or*
 - (ii) *may speak only in the capacity as a representative of the organisation and is not allowed to vote if he/she is the committee vice-chairperson or member;*
- (b) *where the interested person is an honorary post holder of the organisation, he/she may speak only in the capacity as a representative of the organisation and is not allowed to vote;*
- (c) *where the interested person is a current or potential sponsor/service provider of the organisation, he/she should withdraw from the meeting; and*
- (d) *for scenarios other than (a) to (c) above, the committee should decide whether the interested person should be allowed to continue joining the meeting.*

- (b) to enhance corporate governance, a “declaration of interest form” (i.e. declaration form) has been introduced since January 2013 in addition to the practice in (a) above:
 - (i) when it is expected to have a decision-making process in a meeting, declaration forms will be provided at the start of the meeting. Attendees should fill in their connections with any organisations relating to the matters being discussed; and
 - (ii) the use of declaration forms (i.e. the enhancement practice) will be implemented gradually at committees which have power over selection (e.g. of athletes to participate in international multi-sports games) and financial matters.

4.21 Audit noted that:

- (a) as at the end of January 2020 (7 years had elapsed since the introduction of the enhancement practice), only 5 of the 29 committees (Note 34) had implemented the enhancement practice; and
- (b) while the enhancement practice would be implemented at individual committees (see para. 4.20(b)(ii)), it was not intended for implementation at the Board.

4.22 The Board could exercise all the powers of SF&OC (see para. 1.10). In Audit’s view, it was not entirely satisfactory that the Board was not covered by the enhancement practice. For the 29 committees, it is doubtful that any of them can be totally isolated from selection and financial matters. The implementation of the enhancement practice at only 5 of the 29 committees seemed to be slow.

Note 34: *The 5 committees were: Festival of Sport Organizing Committee, Hong Kong Sports Stars Awards Judging Panel, Hong Kong Sports Stars Awards Organizing Committee, International Multi-Sports Games Selection Committee and Membership Affairs Committee.*

4.23 Audit considers that the SF&OC needs to consider extending the enhancement practice to cover the Board, and expedite the implementation of the enhancement practice at individual committees.

Room for improvement in implementing new measures

4.24 During the course of audit, SF&OC informed Audit that new measures had been taken to further facilitate declaring interests and enhancing corporate governance:

- (a) ***The Board.*** Since 2016, at the time of appointment of Officers of SF&OC, the appointees were required to:
 - (i) declare their interests; and
 - (ii) sign the “Conflict of interest disclosure and confidentiality statement”. By the statement, the appointees undertook to disclose any potential or actual conflicts of interest, and to keep matters of the SF&OC confidential as necessary; and
- (b) ***Committees.*** The new measures (see (a) above) had been progressively adopted among committees.

4.25 Audit noted that, as at the end of January 2020:

- (a) of the 29 committees, only 3 (i.e. Hong Kong Athletes Career and Education Programme Committee, HKADC and Membership Affairs Committee) had adopted the new measures; and
- (b) since 30 March 2017 (the date of incorporation of SF&OC), the 3 committees (see (a) above) had required a total of 47 appointees to sign the “Conflict of interest disclosure and confidentiality statement”. Of the 47 statements required to be signed, SF&OC was unable to locate 1 signed statement for Audit’s examination.

4.26 In Audit's view, there is room for more committees to adopt the new measures. Regarding the "Conflict of interest disclosure and confidentiality statement" which could not be located, there is a need to improve the keeping of records on management of conflicts of interest.

4.27 Audit considers that SF&OC needs to expedite the adoption of the new measures among committees. SF&OC also needs to look into the case where the "Conflict of interest disclosure and confidentiality statement" was missing, and take remedial actions as necessary.

Need to record rulings and related deliberations

4.28 The examination of records of meetings of the Board and the 3 committees (see para. 4.15) also revealed that, in the period 30 March 2017 to 31 December 2019, interests were declared in 8 meetings (involving the Board and 2 committees). In 4 committee meetings, rulings on the declared interests as well as the deliberations related to the rulings were not documented, contrary to the requirement mentioned in paragraph 4.19(b)(ii).

4.29 Audit considers that SF&OC needs to take measures to ensure that committees document in minutes the rulings on interests declared at meetings as well as the deliberations related to the rulings.

Audit recommendations

4.30 **Audit has recommended that the Executive Director, SF&OC should:**

- (a) **consider extending the enhancement practice on declaration of interests to cover the Board, and expedite the implementation of the enhancement practice at individual committees;**
- (b) **expedite the adoption of the new measures to further facilitate declaring interests (see para. 4.24) among committees;**

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- (c) **look into the case where the “Conflict of interest disclosure and confidentiality statement” was missing, and take remedial actions as necessary; and**
- (d) **take measures to ensure that committees document in minutes the rulings on interests declared at meetings as well as the deliberations related to the rulings.**

Response from SF&OC

4.31 The President of SF&OC has said that SF&OC:

- (a) accepts the audit recommendations; and
- (b) has endeavoured to formulate a set of comprehensive policy on declaration of interests and disclosure on potential conflicts of interest and confidentiality, where appropriate.

Appendix A

(Note 6 to Table 1 in para. 1.3
and paras. 1.9 and 2.3(a) refer)

List of National Sports Associations (29 February 2020)

1. China Hong Kong Mountaineering and Climbing Union Limited
- *2. Chinese Young Men's Christian Association of Hong Kong
3. Cricket Hong Kong Limited
4. Handball Association of Hong Kong, China Limited
- *5. Health Qigong Association of Hong Kong, China Limited
6. Hong Kong Amateur Athletic Association Limited
7. Hong Kong Amateur Swimming Association
8. Hong Kong Archery Association
- *9. Hong Kong Association of Sports Medicine and Sports Science Limited
- *10. Hong Kong Automobile Association
11. Hong Kong Badminton Association Limited
12. Hong Kong Basketball Association Limited
13. Hong Kong Billiard Sports Control Council Company Limited
14. Hong Kong Boxing Association Limited
15. Hong Kong Canoe Union Limited
16. Hong Kong China Bodybuilding and Fitness Association
17. Hong Kong China Dragon Boat Association
18. Hong Kong China Korfball Association
19. Hong Kong, China Gateball Association Company Limited
20. Hong Kong, China Rowing Association
- *21. Hong Kong Chinese Chess Association
22. Hong Kong Chinese Martial Arts Dragon and Lion Dance Association Limited
- *23. Hong Kong Contract Bridge Association Limited
24. Hong Kong DanceSport Association Limited
25. Hong Kong Equestrian Federation
26. Hong Kong Federation of Roller Sports Limited
27. Hong Kong Fencing Association
- *28. Hong Kong Go Association Limited
29. Hong Kong Golf Association Limited
30. Hong Kong Ice Hockey Association Limited
31. Hong Kong Kart Club Limited
32. Hong Kong Kendo Association Limited
- *33. Hong Kong Lacrosse Association Limited
34. Hong Kong Lawn Bowls Association
- *35. Hong Kong Little League Limited
- *36. Hong Kong Miniature Football Association Limited
37. Hong Kong Muay Thai Association Limited
38. Hong Kong Netball Association Limited
- *39. Hong Kong Paragliding Association
40. Hong Kong Paralympic Committee & Sports Association for the Physically Disabled

Appendix A

(Cont'd)

(Note 6 to Table 1 in para. 1.3
and paras. 1.9 and 2.3(a) refer)

41. Hong Kong Rugby Union
42. Hong Kong Sailing Federation
43. Hong Kong Schools Sports Federation
44. Hong Kong Shooting Association
45. Hong Kong Shuttlecock Association Limited
46. Hong Kong Skating Union Limited
47. Hong Kong Softball Association
48. Hong Kong Sports Association for Persons with Intellectual Disability
49. Hong Kong Squash
50. Hong Kong Table Tennis Association
51. Hong Kong Taekwondo Association Limited
52. Hong Kong Tennis Association Limited
53. Hong Kong Tenpin Bowling Congress Limited
54. Hong Kong Triathlon Association Limited
- *55. Hong Kong Tug-of-War Association Limited
- *56. Hong Kong Ultimate Players Association
57. Hong Kong Underwater Association Limited
58. Hong Kong Water Ski Association Limited
- *59. Hong Kong Woodball Association Limited
60. Hong Kong Wushu Union Limited
61. Orienteering Association of Hong Kong Limited
- *62. Physical Fitness Association of Hong Kong, China Limited
- *63. Ski Association of Hong Kong, China Limited
- *64. South China Athletic Association
65. The Cycling Association of Hong Kong, China Limited
66. The Gymnastics Association of Hong Kong, China
- *67. The Hong Kong Aviation Club Limited
68. The Hong Kong Baseball Association Limited
69. The Hong Kong Football Association Limited
70. The Hong Kong Hockey Association
71. The Hong Kong Life Saving Society
- *72. The Hong Kong Society for the Deaf
73. The Hong Kong Weightlifting and Powerlifting Association Limited
74. The Judo Association of Hong Kong, China
75. The Karatedo Federation of Hong Kong, China Limited
76. The University Sports Federation of Hong Kong, China Limited
- *77. Victoria Recreation Club
78. Volleyball Association of Hong Kong, China Limited
79. Windsurfing Association of Hong Kong

Source: LCSD and SF&OC records

*Remarks: * denotes NSAs not subvented by block grant of LCSD's Sports Subvention Scheme. All the above 79 NSAs are members of SF&OC (see Note 6 to Table 1 in para. 1.3).*

**Objects of SF&OC
(2017)**

1. To promote the interests of sports in Hong Kong
2. To form and stimulate public opinions in favour of the provision of proper and better facilities for the practice of all sports in Hong Kong
3. To reconcile or arbitrate in any differences which may arise between NSAs or groups therein
4. To coordinate all local sports organisations in the promotion of “Sport for All” and to encourage every citizen to engage in daily participation in physical activities to promote public health
5. To affiliate with any worldwide or regional organisations dedicated to the promotion of international competitions
6. To foster the spirit of the Olympic Games, which is friendship between peoples by means of sport
7. To promote cultural and educational programmes relating to the Olympic Movement in Hong Kong through the establishment of an Olympic Academy and an Olympic Museum
8. To develop, promote and protect the Olympic Movement in Hong Kong in accordance with the Olympic Charter, and to ensure the observance of the Olympic Charter in Hong Kong, China
9. To promote the diffusion of Olympism in the teaching of physical education and sport in schools and universities
10. To undertake the organisation of international multi-sports competitions
11. To promote Hong Kong’s participation in all multi-sports games patronised by the IOC

Appendix B
(Cont'd)
(para. 1.7 refers)

12. To participate in actions to promote peace and to promote gender equality in sport
13. To support and encourage the promotion of sports ethics for educational purposes
14. To encourage and support measures relating to the medical care and health of athletes
15. To fight against the use in sports of substances and procedures prohibited by the IOC and International Federations governing sports and to adopt and implement the World Anti-Doping Code, thereby ensuring that the Federation's anti-doping policies and rules, membership and/or funding requirements and results management procedures conform with the World Anti-Doping Code and respect all the roles and responsibilities for NOCs that are listed within the World Anti-Doping Code
16. To demonstrate a responsible concern for environmental issues
17. To undertake action against any form of discrimination on the grounds of race, religion, politics, sex or otherwise in sport
18. To undertake action against any form of violence in sport
19. To work to maintain harmonious and cooperative relations with appropriate governmental bodies
20. To help train sports administrators
21. To approve the selection and to control Hong Kong's representation in all Olympic Games, Asian Games and all other international, continental and regional multi-sports games patronised by the IOC
22. To acquire and take over all or any part of the assets and liabilities of the unincorporated body known as "Sports Federation & Olympic Committee of Hong Kong, China"
23. To do all such other lawful things as are incidental or conducive to the attainment of the above objects

Source: SF&OC's Articles of Association

Committees of SF&OC
(31 December 2019)

Committee	Function
1. Administration and Personnel Committee	<ul style="list-style-type: none"> • Formulate overall strategic plan in administration and personnel management • Review internal guidelines and policies in a timely manner
2. Athletes Committee	<ul style="list-style-type: none"> • Formulate overall strategic plan in promoting the welfare of Hong Kong athletes • Represent rights and interests of athletes and make related recommendations
3. Doping Control Panel	<ul style="list-style-type: none"> • Conduct results management on Adverse Analytical Finding and other potential Anti-Doping Rule Violations • Conduct provisional hearings and suspensions if appropriate
4. Editorial Board of Hong Kong Olympic Voice	<ul style="list-style-type: none"> • Decide content of “Olympic Voice of Hong Kong” for each issue
5. Election Committee (non-standing committee)	<ul style="list-style-type: none"> • Formed for each Election of Officers in accordance with SF&OC’s By-Laws for overseeing the nomination and election process
6. Festival of Sport Organizing Committee	<ul style="list-style-type: none"> • Formulate strategic plan in organising the annual Festival of Sport • Decide on allocation of funding to all applicant NSAs • Oversee actual implementation of the events
7. Finance Committee	<ul style="list-style-type: none"> • Review overall budget • Formulate overall strategic investment plan
8. Hong Kong Athletes Career and Education Programme Committee	<ul style="list-style-type: none"> • Understand the genuine needs of elite athletes on education, career and life skills • Improve the content of the programme to prepare elite athletes for their post-athletic options upon retirement • Improve criteria for vetting applications • Monitor budget allocation

Appendix C
(Cont'd)
(paras. 1.11 and 4.2 refer)

Committee	Function
9. Hong Kong Anti-Doping Appeal Panel	<ul style="list-style-type: none"> Hear and determine all issues arising from any matter which is appealed to it pursuant to the anti-doping rules in accordance with latest guideline provided by the World Anti-Doping Agency
10. Hong Kong Anti-Doping Committee	<ul style="list-style-type: none"> Implement Anti-Doping Programme in Hong Kong Oversee evolution and improvement of anti-doping policy and rules
11. Hong Kong Anti-Doping Disciplinary Panel	<ul style="list-style-type: none"> Conduct hearing after receiving notification of possible anti-doping violations from the Doping Control Panel
12. Hong Kong Olympic Academy	<ul style="list-style-type: none"> Formulate policy in planning and organising Olympic courses and education courses in Hong Kong Monitor implementation of SF&OC education programme Maintain contact with Education Bureau for promotion of Olympism
13. Hong Kong Sports Stars Awards Judging Panel	<ul style="list-style-type: none"> Judge the results of the awards according to the rules and regulations
14. Hong Kong Sports Stars Awards Organizing Committee	<ul style="list-style-type: none"> Formulate strategic plan for the awards Vet the nomination provided by NSAs
15. International Multi-Sports Games Appeal Panel	<ul style="list-style-type: none"> Hear and determine all issues arising from any matter which is appealed to it pursuant to the international multi-sports games
16. International Multi-Sports Games Selection Committee (non-standing committee)	<ul style="list-style-type: none"> Formed for each international multi-sports games in accordance with SF&OC's Articles of Association for the formation of Hong Kong, China Delegation to participate in the respective Games
17. Investment Sub-Committee	<ul style="list-style-type: none"> Review the investment assets and give advice to the Finance Committee

Appendix C
(Cont'd)
(paras. 1.11 and 4.2 refer)

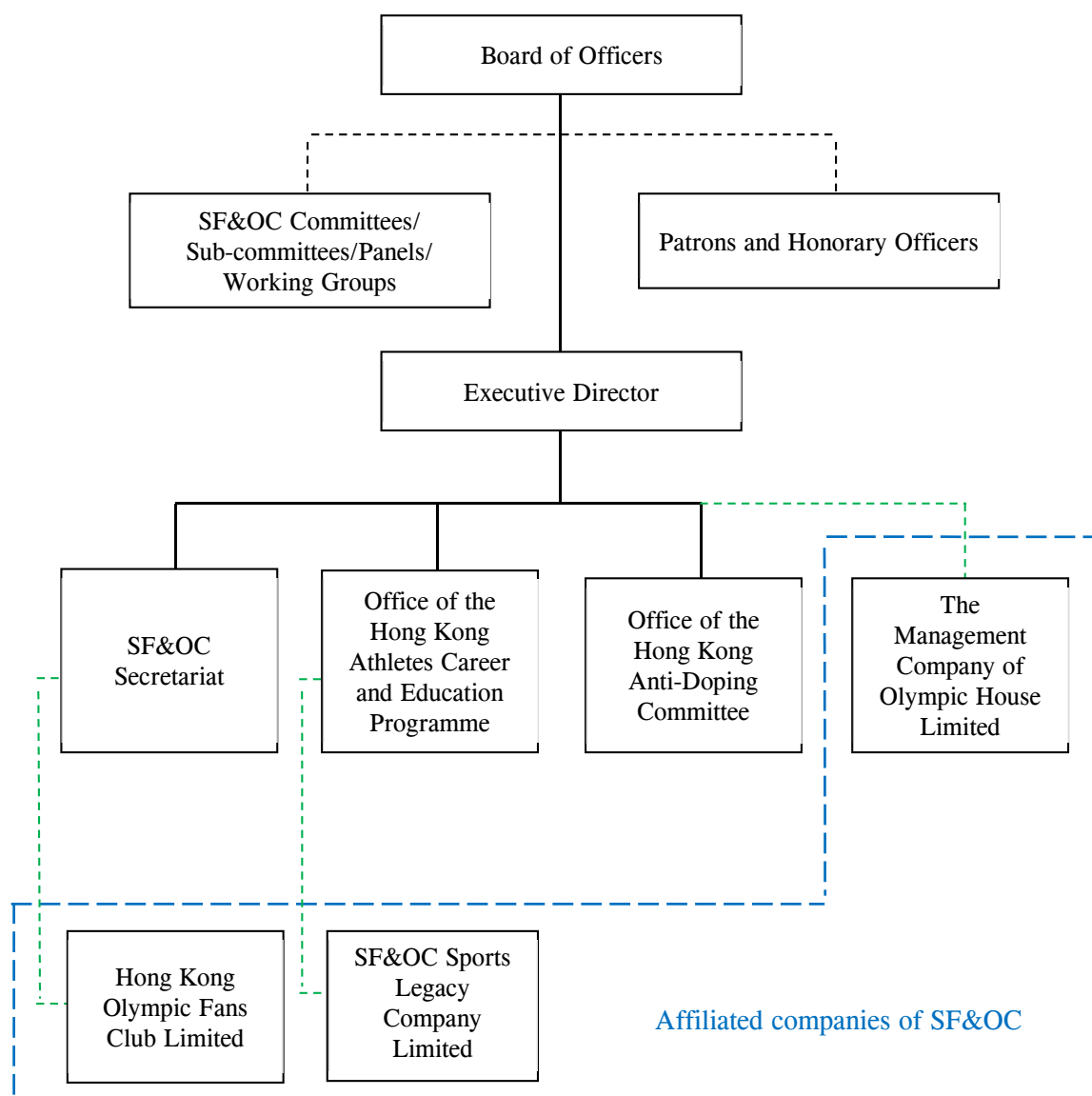
Committee	Function
18. Membership Affairs Appeal Panel	<ul style="list-style-type: none"> • Hear and determine all issues arising from appeals pursuant to SF&OC's Articles of Association
19. Membership Affairs Committee	<ul style="list-style-type: none"> • Formulate overall strategic plan for SF&OC membership system and in vetting membership of applicant organisations • Check and vet membership applications and membership upgrading • Propose any suspension or termination of membership • Deal with any infringements of the Articles of Association, IOC Code of Conduct, and to reconcile or arbitrate in any differences arising between NSAs or groups
20. Olympic Day Organizing Committee	<ul style="list-style-type: none"> • Formulate strategic plan in organising the Olympic Day • Oversee actual implementation of the events
21. Olympic House Management Committee	<ul style="list-style-type: none"> • Advise MCOHL on policies of the daily operation and proper spending of the government subvention • Make available the facilities and services of Olympic House for use by the public
22. Public Relations and Corporate Communication Committee	<ul style="list-style-type: none"> • Formulate overall strategic plan on public relations matters • Assign spokesman on different SF&OC issues
23. Strategic Management Committee	<ul style="list-style-type: none"> • Formulate overall management plan in the formation of various committees/sub-committees • Propose membership composition, tenure and terms of reference of each committee/sub-committee • Formulate medium and long term plan for SF&OC • Regularly review the Articles of Association and to recommend appropriate amendments
24. Therapeutic Use Exemption Panel	<ul style="list-style-type: none"> • Receive applications from national athletes of Hong Kong • Grant exemption, as appropriate, in accordance with the latest guideline provided by the World Anti-Doping Agency

Appendix C
(Cont'd)
(paras. 1.11 and 4.2 refer)

Committee	Function
25. Venues and Facilities Development Advisory Panel	<ul style="list-style-type: none"> • Keep close liaison with the Government on development of sports infrastructure and facilities • Consult officials of SF&OC and NSAs the development and implementation of sports infrastructure and facilities
26. Women and Sports Committee	<ul style="list-style-type: none"> • Formulate overall strategic plan in promoting public interest and support for women to participate in sports
27. Working Group on Policy Review of the Private Recreational Leases	<ul style="list-style-type: none"> • Keep close liaison with the Government on the policy review of the private recreational leases • Keep close liaison with NSAs and private sports clubs on the policy review
28. Working Group on Review of Staff Employment Package	<ul style="list-style-type: none"> • Review staff employment package and staff contract • Make recommendations for retention of staff
29. Youth Committee	<ul style="list-style-type: none"> • Formulate overall strategic plan in arousing public interest for youth to participate in sport

Source: SF&OC records

**SF&OC:
Organisation chart
(31 December 2019)**



Legend: — denotes direct reporting to the management of SF&OC
 ---- denotes advisory roles of the parties
 ---- denotes direct reporting of affiliated companies to the management of SF&OC

Source: SF&OC records

**List of subvented programmes
under the subvention agreements between the Government and
SF&OC and between the Government and MCOHL
(2018-19)**

**Approved programmes under the agreement between the
Government and SF&OC**

SF&OC
Secretariat

- To promote the interest of sports in Hong Kong
- To coordinate local sports organisations in the promotion of “Sport of All”
- To play the role of NOC in Hong Kong
- To carry out other objects in accordance with its Constitution/Articles

The Office of
HKACEP

- To promote HKACEP to related NSAs and their respective athletes
- To provide support to serving and retired athletes in respect of education, career development and life skills training
- To provide consultation services, scholarships, vocational training, language courses, job placement programmes and other specific forms of support to these athletes

The Office of
HKADC

- To promote a doping-free environment for sports in Hong Kong
- To ensure that Hong Kong’s Anti-Doping Rules are in full compliance with the World Anti-Doping Code and the relevant international regulations
- To implement anti-doping education and testing programmes

**Approved programmes under the agreement between the
Government and MCOHL**

MCOHL

- To provide office accommodation and related services to the organisations at a reasonable cost that are affiliated to and recommended by SF&OC at the Olympic House in accordance with the laws of the Hong Kong Special Administrative Region
- To provide building management services including cleansing, security to sub-tenants and hirers of the Olympic House to the reasonable satisfaction of the Management Committee
- To provide office supporting services including IDD, photocopying, fax, bulk mailing, meeting room facilities and car parking to sub-tenants and hirers of the Olympic House to the reasonable satisfaction of the Management Committee
- To provide maintenance services to the structure, building services and fire safety installations of the Olympic House to the reasonable satisfaction of the Management Committee

Source: SF&OC records

Appendix F
(paras. 3.19(a), 3.20(a)(iv)
and 3.24 refer)

**Performance indicators stipulated in the subvention agreements
between the Government and SF&OC and
between the Government and MCOHL
(2014-15 to 2018-19)**

	Performance indicator	2014-15	2015-16	2016-17	2017-18	2018-19
The SF&OC Secretariat						
1.	Attending education programmes organised by the International Sports Organisations (e.g. IOC)	4 sessions	4 sessions	4 sessions	4 sessions	4 sessions
2.	Attending international conferences	3 sessions	3 sessions	3 sessions	N.A.	N.A.
3.	Holding council meetings, annual and other general meetings for association members/committee members	5 meetings	5 meetings	13 meetings	12 meetings	12 meetings
4.	Holding SF&OC committees meetings	8 meetings	8 meetings			
5.	Publicising newsletters and the annual report	N.A.	N.A.	5 issues	4 issues	4 issues
The Office of HKACEP						
1.	Education <ul style="list-style-type: none"> Providing online integrated English course, language enhancement course and scholarships 	163 athletes	133 athletes	133 athletes	133 athletes	133 athletes
2.	Career <ul style="list-style-type: none"> Providing job placement and internships 	21 athletes	22 athletes	22 athletes	25 athletes	25 athletes
3.	Life skills <ul style="list-style-type: none"> Implementing the Ambassador Programme, life skill training and mentorship programme 	155 athletes	170 athletes	200 athletes	200 athletes	228 athletes
4.	Consultation service <ul style="list-style-type: none"> Providing career orientation and counselling 	70 athletes	130 athletes	150 athletes	150 athletes	150 athletes
5.	Athletes' educational promotions <ul style="list-style-type: none"> Organising promotional activities (e.g. seminars/workshops on education and career development) 	A total of 1,600 athletes and participants	300 athletes and 3,800 participants	300 athletes and 3,800 participants	300 athletes and 3,800 participants	300 athletes and 3,800 participants

Appendix F
(Cont'd)
(paras. 3.19(a), 3.20(a)(iv)
and 3.24 refer)

	Performance indicator	2014-15	2015-16	2016-17	2017-18	2018-19
The Office of HKADC						
1.	Education <ul style="list-style-type: none"> Conducting education sessions Producing education materials Publishing posters Creating an educational video and an online platform Organising international conferences 	20 17 items N.A. 9 items 1	22 18 items 5 items N.A. N.A.	23 19 items N.A. N.A. N.A.	23 19 items N.A. N.A. N.A.	24 19 items N.A. N.A. N.A.
2.	Testing <ul style="list-style-type: none"> Conducting anti-doping tests Monitoring whereabouts submission from athletes 	377 tests 256 athletes	404 tests 260 athletes	331 tests 265 athletes	344 tests 316 athletes	502 tests 313 athletes
3.	Producing annual reports on anti-doping activities	39 reports	39 reports	40 reports	40 reports	32 reports
4.	Revising Anti-Doping Rules	2 sets	N.A.	N.A.	N.A.	N.A.
5.	Attending international conference or training courses	3 sessions	2 sessions	2 sessions	2 sessions	2 sessions
MCOHL						
1.	Having an income from hiring out the meeting facilities	\$1,458,000	\$1,458,000	\$1,458,000	\$1,510,000	\$1,501,000
2.	Having an income from hiring out the carparking facilities	\$840,000	\$900,000	\$1,020,000	\$1,248,000	\$1,440,000
3.	Attaining a usage rate of meeting room facilities (out of 49,275 room-hours)	32%	32%	32%	32%	32%
4.	Attaining a usage rate of the carpark (out of 464,280 carpark-hours)	40%	40%	40%	40%	40%
5.	Convening one Management Committee meeting annually	1 meeting	1 meeting	1 meeting	1 meeting	1 meeting
6.	Making available the meeting rooms for the use of tenants	At least 12,000 room-hours	At least 12,000 room-hours	At least 12,000 room-hours	At least 12,000 room-hours	At least 12,000 room-hours

Source: SF&OC and MCOHL records

**Meetings held by the Board/committees of SF&OC
(30 March 2017 to 31 December 2019)**

Board/committees	2017 (since 30 March)	2018	2019	Total
	(No.)			
Board	4	4	5	13
Committees				
1. Administration and Personnel Committee	1	0	0	1
2. Athletes Committee	0	0	1	1
3. Doping Control Panel	0	0	0	0
4. Editorial Board of Hong Kong Olympic Voice	0	0	0	0
5. Election Committee	N.A. (Note 1)	1	N.A. (Note 1)	1
6. Festival of Sport Organizing Committee	1	1	2	4
7. Finance Committee	1	0	0	1
8. Hong Kong Athletes Career and Education Programme Committee	2	3	3	8
9. Hong Kong Anti-Doping Appeal Panel	0	0	0	0
10. Hong Kong Anti-Doping Committee	1	2	2	5
11. Hong Kong Anti-Doping Disciplinary Panel	0	0	0	0
12. Hong Kong Olympic Academy	0	0	0	0
13. Hong Kong Sports Stars Awards Judging Panel	0	1	1	2
14. Hong Kong Sports Stars Awards Organizing Committee	1	2	2	5
15. International Multi-Sports Games Appeal Panel	0	0	0	0

Appendix G
(Cont'd)
(para. 4.5 refers)

Board/committees	2017 (since 30 March)	2018	2019	Total
	(No.)			
16. International Multi-Sports Games Selection Committee	1	1	0	2
17. Investment Sub-Committee	N.A. (Note 2)	1	2	3
18. Membership Affairs Appeal Panel	0	0	0	0
19. Membership Affairs Committee	2	2	2	6
20. Olympic Day Organizing Committee	1	2	1	4
21. Olympic House Management Committee	0	0	0	0
22. Public Relations and Corporate Communication Committee	0	0	0	0
23. Strategic Management Committee	0	0	0	0
24. Therapeutic Use Exemption Panel	0	0	0	0
25. Venues and Facilities Development Advisory Panel	0	0	0	0
26. Women and Sports Committee	0	0	0	0
27. Working Group on Policy Review of the Private Recreational Leases	N.A. (Note 2)	1	0	1
28. Working Group on Review of Staff Employment Package	N.A. (Note 2)	2	1	3
29. Youth Committee	0	0	0	0
Total	15	23	22	60

Source: Audit analysis of SF&OC records

Note 1: The Election Committee is established for each election of Officers. During the period, the committee was formed once for the election in 2018.

Note 2: The committees were set up in 2018.

**Attendance rates of the Board/committees of SF&OC
(30 March 2017 to 31 December 2019)**

Board/committees	No. of members	Attendance rates (Note)			
		2017 (since 30 March)	2018	2019	Average
Board	15	83 %	73 %	76 %	77 %
Committees					
1. Administration & Personnel Committee	9	78 %	—	—	78 %
2. Athletes Committee	10	—	—	60 %	60 %
3. Election Committee	3	—	100 %	—	100 %
4. Festival of Sport Organizing Committee	12 to 14	58 %	69 %	64 %	64 %
5. Finance Committee	9	78 %	—	—	78 %
6. Hong Kong Athletes Career and Education Programme Committee	14 or 15	60 %	62 %	62 %	62 %
7. Hong Kong Anti-Doping Committee	11	91 %	82 %	73 %	80 %
8. Hong Kong Sports Stars Awards Judging Panel	8 or 9	—	100 %	75 %	88 %
9. Hong Kong Sports Stars Awards Organizing Committee	8	63 %	63 %	69 %	65 %
10. International Multi-Sports Games Selection Committee	9 or 15	89 %	93 %	—	91 %
11. Investment Sub-committee	10	—	70 %	75 %	73 %
12. Membership Affairs Committee	8 to 11	65 %	56 %	91 %	71 %
13. Olympic Day Organizing Committee	10 or 11	40 %	45 %	82 %	53 %
14. Working Group on Policy Review of the Private Recreational Leases	8	—	75 %	—	75 %
15. Working Group on Review of Staff Employment Package	13 or 14	—	96 %	100 %	98 %

Source: Audit analysis of SF&OC records

Note: For each year, the attendance rate of the Board or any committee was calculated by taking the average of the attendance rates of its individual meetings held in the year.

Acronyms and abbreviations

ASDF	Arts and Sport Development Fund (Sports Portion)
Audit	Audit Commission
BPR	“Best Practice Reference for Governance of National Sports Associations — Towards Excellence in Sports Professional Development”
DCOs	Doping control officers
FSTB	Financial Services and the Treasury Bureau
HAB	Home Affairs Bureau
HKACEP	Hong Kong Athletes Career and Education Programme
HKADC	Hong Kong Anti-Doping Committee
HKSI	Hong Kong Sports Institute Limited
ICAC	Independent Commission Against Corruption
IOC	International Olympic Committee
LCSD	Leisure and Cultural Services Department
MCOHL	Management Company of Olympic House Limited
NOC	National Olympic Committee
NSAs	National Sports Associations
SF&OC	Sports Federation & Olympic Committee of Hong Kong, China

SPORTS FEDERATION & OLYMPIC COMMITTEE OF HONG KONG, CHINA

Executive Summary

1. The Sports Federation & Olympic Committee of Hong Kong, China (SF&OC) is recognised by the International Olympic Committee (IOC) as the National Olympic Committee (NOC) of Hong Kong, China. As an NOC, SF&OC is dedicated to the development and promotion of sports in accordance with the Olympic Charter, which serves as the statutes for IOC. SF&OC received funding from the Government through the Arts and Sport Development Fund (Sports Portion) (ASDF), the Home Affairs Bureau (HAB)'s funding and the Leisure and Cultural Services Department (LCSD)'s recurrent subvention. In 2018-19, the total amount of government funding provided to SF&OC was \$38.9 million. According to HAB, HAB will increase its recurrent subvention to SF&OC from \$20 million in 2019-20 to \$40.6 million in 2020-21.

2. SF&OC was established in November 1950 as a non-profit-making non-governmental organisation and registered under the Societies Ordinance (Cap. 151). In March 2017, SF&OC was incorporated under the Companies Ordinance (Cap. 622) as a company limited by guarantee. More details about SF&OC are shown below:

- (a) SF&OC has three affiliated companies, namely:
 - (i) the Management Company of Olympic House Limited (MCOHL), which has been entrusted by the Government to manage a government property (i.e. the Olympic House) since 2004;
 - (ii) the SF&OC Sports Legacy Company Limited, which promotes sports and blends character and career development for students in underprivileged schools and retired/retiring athlete coaches; and
 - (iii) the Hong Kong Olympic Fans Club Limited, which provides a platform for the public to interact and contribute to the Olympic Movement and for the promotion of the value of Olympism;

Executive Summary

- (b) as at 31 December 2019, SF&OC had 82 members comprising 79 National Sports Associations (NSAs) and 3 individual ordinary members;
 - (c) SF&OC is governed by a Board of Officers (the Board), which consists of 15 Officers. The Board is supported by 29 Committees/Sub-Committees/Panels/Working Groups (collectively referred to as committees). The committees assist in matters such as strategic management, finance and investment, administration and personnel affairs, membership affairs and appeals, and public relations and corporate communication; and
 - (d) day-to-day operations of SF&OC and MCOHL (see (a)(i) above) are under the direct management of the Executive Director, SF&OC. SF&OC comprises:
 - (i) the SF&OC Secretariat, which is mainly responsible for handling corporate matters of SF&OC;
 - (ii) the Office of the Hong Kong Athletes Career and Education Programme (HKACEP), which is mainly responsible for providing post-athletic career, education and life skills support for athletes; and
 - (iii) the Office of the Hong Kong Anti-Doping Committee (HKADC), which is mainly responsible for the planning and implementation of anti-doping programmes.
3. HAB provides recurrent subventions to SF&OC and MCOHL. HAB had also, from time to time, provided one-off allocations to SF&OC and MCOHL. In 2018-19, the HAB funding provided to SF&OC amounted to \$15.8 million and that provided to MCOHL amounted to \$7.7 million. The Audit Commission (Audit) has recently conducted a review of SF&OC, including operational issues concerning MCOHL.

Operation of Sports Federation & Olympic Committee of Hong Kong, China

4. *Selection of athletes for participating in international games.* SF&OC, as NOC of Hong Kong, China, has the exclusive authority for the representation of the region in international games. Nominations of athletes for inclusion in the Hong Kong, China Delegation are submitted by NSAs to SF&OC's International Multi-Sports Games Selection Committee (Selection Committee) for selection (para. 2.3). Audit noted the following issues:

- (a) *Need to enhance transparency in selecting athletes to participate in international games.* In December 2011, the “Best Practice Reference for Governance of National Sports Associations — Towards Excellence in Sports Professional Development” (BPR) was drawn up by the Independent Commission Against Corruption in consultation with HAB, LCSD and some NSAs. Under BPR, a set of best practices is provided to enhance the transparency in the selection of athletes to participate in sports games. Audit examined the extent to which SF&OC had implemented BPR best practices on the transparency in selecting athletes for participating in international games. Audit found that, up to 29 February 2020, some of the best practices were yet to be implemented. Moreover, Audit found that in a case in 2018, there is scope for enhancing the transparency and accountability in selecting athletes to participate in an international game (paras. 2.4, 2.5, 2.7 and 2.9); and
- (b) *Need to enhance impartiality in the appeal mechanism.* If an NSA is not satisfied with the decision of SF&OC's Selection Committee, it can appeal to SF&OC's International Multi-Sports Games Appeal Panel for a final decision. Audit research on the appeal mechanisms of Australia, Canada, Japan, Singapore and the United States found that in some of these overseas countries, the public could seek independent advice on sports-related disputes from independent professionals, and appeals are handled by independent bodies (paras. 2.10 and 2.11).

5. *Handling of membership affairs.* SF&OC's NSA members (see para. 2(b) above) should comply with the requirements of the Olympic Charter (see para. 1 above), the Code of Ethics of IOC, and SF&OC's Articles of Association. If an NSA member has infringed the requirements, SF&OC has the power to cancel or suspend its membership. Audit noted that there is no mechanism in place to ensure NSA

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members' compliance with the requirements. Such a mechanism may include, for example, completing annual self-assessment forms and submitting them to SF&OC for evaluation, and conducting sample checks on NSA members' compliance with the requirements (paras. 2.18 and 2.19).

6. ***Management of HKACEP.*** HKACEP aims to deliver three core provisions for elite athletes in Hong Kong, namely Career, Education and Life Skills. These provisions are to enable elite athletes to increase their competitiveness in global employment markets (para. 2.22). Audit noted the following issues:

- (a) ***Need to instigate remedial measures for the slow progress of some English course participants.*** Under HKACEP, an English online course is provided for athletes to enhance their level of English. In 2018-19, there were 124 course participants. Audit analysed the progress made by the 124 participants and found that as at 31 March 2019:
 - (i) 69 (56%) participants had joined the course for more than four years; and
 - (ii) among these 69 participants, 40 (58%) had failed to advance at least one grade level after joining the course (para. 2.24); and
- (b) ***Need to monitor the claiming of scholarships for athletes.*** Under HKACEP, scholarships are provided on a reimbursement basis to retiring or retired athletes for pursuing better qualifications. Audit analysed athletes' claiming of HKACEP scholarships for the period 2014-15 to 2018-19 and found that, as at 31 December 2019 (paras. 2.27, 2.29 and 2.30):
 - (i) 11 scholarships, which had been approved more than 2.5 years ago, had not been claimed by the 11 athletes concerned; and
 - (ii) 1 athlete had only partially claimed the scholarship approved in 2014-15 (i.e. of the scholarship which amounted to \$144,000, \$33,600 and \$25,200 were claimed in September 2016 and April 2017 respectively). In August 2016, the athlete applied for an extension of his study. Up to 31 December 2019, there was no documentation indicating that his extension had been approved, nor

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was there evidence indicating that SF&OC had taken actions to follow up the progress of study of the athlete (para. 2.30).

7. ***Conduct of doping tests.*** For the Office of HKADC to conduct doping tests, athletes are required to submit information relating to their whereabouts on a quarterly basis and as and when required. Doping control officers (DCOs) are engaged to collect samples from athletes for doping tests. Audit examined the doping tests conducted by the Office of HKADC in the period 2014-15 to 2018-19, and found that owing to the fact that some athletes could not be located, there were unsuccessful attempts to conduct the tests. Of the 69 unsuccessful attempts in 2018-19, Audit examined 10 unsuccessful attempts (related to six athletes) (paras. 2.36 to 2.38). Audit noted the following issues:

- (a) of the six athletes, only four had been sent e-mails notifying them about the unsuccessful attempts and requesting them to provide accurate information on their whereabouts (para. 2.38(a));
- (b) two of the six athletes had subsequently updated their whereabouts to the Office of HKADC. However, as the updated whereabouts had not been provided to DCOs, doping tests had not been conducted for the two athletes (para. 2.38(b));
- (c) there were no laid-down requirements on the number of attempts to be made to locate an athlete. The number of attempts made for the six athletes varied (para. 2.38(c)); and
- (d) contrary to the anti-doping requirement, all the six athletes had not been asked at any point in time to provide explanations on why they could not be located (para. 2.38(d)).

8. ***Management of the Olympic House.*** The Olympic House, which is managed by MCOHL, comprises a total building area of 7,800 square metres. MCOHL provides office spaces and ancillary facilities (e.g. meeting facilities) in the Olympic House to SF&OC and its affiliated companies, NSAs and sports-related organisations. According to the tenancy agreements signed between MCOHL and its tenants, MCOHL has the right to allocate office spaces to them based on the numbers of their staff (paras. 2.41 and 2.42). Audit noted the following issues:

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- (a) *Need to sort out the long-term requirement for office spaces.* In 2011, SF&OC had started to discuss with the Government about the requirement for office spaces in the Olympic House in the long term. According to SF&OC, over-crowding of NSA staff in the Olympic House was a long-lasting issue. SF&OC subsequently proposed that the Olympic House could be redeveloped to meet the needs of NSAs. Up to early January 2020:
 - (i) according to the 2018-19 Budget, the Government would conduct a technical feasibility study on the redevelopment of the Olympic House; and
 - (ii) according to HAB, it was exploring the feasibility of temporarily relocating MCOHL and its existing tenants to other vacant premises.

HAB needs to, in collaboration with SF&OC, map out the way forward for the Olympic House, and devise a timetable to take forward matters arising as appropriate (paras. 2.43 to 2.45); and

- (b) *Need to devise measures to address the problem of over-crowding in the Olympic House.*
 - (i) *Need to review allocation of office spaces to NSAs.* In the period 2014-15 to 2018-19, MCOHL received 3 applications from NSAs for office spaces in the Olympic House, and 7 applications from NSAs for reallocation of office spaces (i.e. for more office spaces). However, due to full occupancy of office spaces in the Olympic House, the NSAs' requests had not been entertained. Audit analysed the gross floor areas and numbers of staff of NSAs located in the Olympic House in 2018-19, and found that there were large variations in the numbers of staff of some NSAs occupying office spaces of the same gross floor area (e.g. for 3 NSAs each of which had been allocated an office space of 130 square feet, the numbers of staff occupying ranged from 1 to 6). Moreover, there were, in general, large variations in the average gross floor area per staff; and
 - (ii) *Need to improve the use of meeting venues.* The meeting venues available at the Olympic House comprise a lecture theatre, a board

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room and 7 meeting rooms. The venues are open up to the local sports sector and the public at hourly charges. SF&OC and its affiliated companies, and all NSAs can use the 7 meeting rooms free of charge. Audit examined the utilisation of the meeting venues in the period 2014-15 to 2018-19 and found that for the lecture theatre, the usage rate was between 26% and 32%; for the board room, the usage rate decreased from 14% in 2014-15 to 9% in 2018-19; and for the meeting room, the usage rate was between 41% and 54%. SF&OC needs to explore the feasibility of converting some meeting rooms into office spaces, and to step up its efforts in promoting the availability of the lecture theatre and the board room for public hiring (paras. 2.46, 2.47 and 2.49 to 2.51).

9. ***Procurement issues.*** SF&OC has laid down the requirements for procurement purpose. Audit examined the procurement records of SF&OC and MCOHL in the period 2016-17 to 2018-19, and found that there was scope for improvement in 47 procurements of goods or services with a total amount of about \$6.6 million (paras. 2.56 and 2.58). Audit noted the following issues in the 47 procurements (para. 2.59):

- (a) in 20 procurements, only a single quotation had been obtained as, according to SF&OC, the suppliers were sole suppliers or sole agents. Audit noted that this was not always the case (e.g. in a procurement of a portable speaker). In Audit's view, there were other compatible brands available in the market (para. 2.59(a));
- (b) in 24 procurements, the procurements were in fact reimbursements of expenses (e.g. reimbursements of transportation costs to NSAs). However, SF&OC had not laid down guidelines on reimbursements of expenses (para. 2.59(b));
- (c) in 2 procurements (where tendering was required according to laid-down requirements), tendering had not been conducted. As a matter of propriety, approval should have been sought from the relevant authority for not conducting tendering. Furthermore, in these 2 procurements (for air tickets), quotations could have been obtained to ensure the best value for money (para. 2.59(c)); and

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- (d) in 1 procurement, only two instead of the required three written quotations had been obtained. Furthermore, the procurement which was approved by two elected officers, should have been approved by the President of SF&OC via an elected officer as required (para. 2.59(d)).

Government funding and monitoring

10. *Provision of subventions by HAB.* Audit noted the following issues:

- (a) *Need to review subvented programmes with persistent operating deficits.*
It was stated in Financial Circular No. 9/2004 “Guidelines on the Management and Control of Government Funding for Subvented Organisations” that in examining an organisation’s budget, the Controlling Officer should examine whether the deficit budget (if any) is justified and whether the organisation is able to manage the deficit with its reserve. Audit examined the financial positions of programmes of SF&OC and MCOHL subvented by HAB in the period 2014-15 to 2018-19. Audit noted that:
 - (i) throughout the period 2014-15 to 2018-19, the SF&OC Secretariat had operating deficits. The deficits had increased from \$33,000 in 2014-15 to \$588,000 in 2018-19;
 - (ii) in 2015-16 and 2016-17, the Office of HKACEP, the Office of HKADC and MCOHL also had operating deficits; and
 - (iii) in 2017-18, the Office of HKACEP and the Office of HKADC had drawn on a one-off allocation of \$9 million provided by HAB for each of them to cover programme expenses. In 2017-18, MCOHL had also drawn on a one-off allocation of \$9 million provided by HAB for MCOHL’s continuous operation. In 2017-18, therefore, the Office of HKACEP, the Office of HKADC and MCOHL had operating surpluses. Nevertheless, in 2018-19, only MCOHL had a surplus, while the Office of HKACEP and the Office of HKADC had incurred deficits.

Having regard to SF&OC’s financial situation in recent years, the Government has decided to substantially increase the recurrent subvention for SF&OC from 2020-21 onwards (paras. 3.2 and 3.4 to 3.6);

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- (b) ***Need to disburse recurrent subventions on a timely basis.*** Recurrent subventions are disbursed by HAB to SF&OC and MCOHL through four equal quarterly payments. Audit examined the disbursements to SF&OC in the period 2016-17 to 2018-19 and found that the recurrent subventions were not always disbursed on a timely basis. The delays in disbursement ranged from 7 to 104 days. According to SF&OC, long delays in and irregular intervals of receiving disbursements from HAB had caused disruptions to the cashflow of SF&OC and had hence resulted in operational difficulties. With respect to the disbursements to MCOHL, Audit noted that the dates of disbursement had not been stipulated in the funding agreements signed between HAB and MCOHL (paras. 3.7 and 3.8);
- (c) ***Need to ensure no cross-subsidisation between subvented programmes and self-financing activities.*** According to Financial Circular No. 9/2004 (see (a) above), organisations should ensure that there is no cross-subsidisation of self-financing activities by subvented programmes in money or in kind. Other than MCOHL, SF&OC has two affiliated companies (see para. 2(a) above). The two companies are operated on a self-financing basis. Audit noted that:
- (i) one of the two companies occupied an office space of 305 square feet in the Olympic House. Although the company was operating on a self-financing basis, MCOHL only charged the company a monthly management fee at subvented rate. In Audit's view, the company should have been charged the non-subvented rate. In the period 2015-16 to 2018-19, the management fee undercharged was \$345,880; and
 - (ii) for the two companies, over the years, there was no apportionment of office overheads (e.g. salaries of managerial staff) between the two companies and subvented programmes (paras. 3.10 and 3.11); and
- (d) ***Need to update the list of subvented organisations.*** According to Financial Circular No. 9/2004 (see (a) above), the Directors of Bureaux are required to notify the Financial Services and the Treasury Bureau of additions to/deletions from the list of organisations receiving recurrent funding from the Government. Audit noted that MCOHL had not been included in the list (paras. 3.13 and 3.14).

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11. ***Monitoring by HAB.*** Audit noted the following issues:
- (a) ***Need to ensure timely submission of reports.*** According to subvention agreements, SF&OC undertakes to submit to HAB quarterly reports and annual audited accounts, and MCOHL undertakes to submit to HAB quarterly statements of management accounts, unaudited accounts, audited accounts and reports on the achievement of performance indicators. Audit examined the submission of accounts and reports by SF&OC and MCOHL in the period 2014-15 to 2018-19 and found that:
 - (i) MCOHL was frequently not punctual in submitting accounts (delays ranging from 5 to 31 days); and
 - (ii) in the period 2014-15 to 2017-18, MCOHL did not submit any reports on its achievement of performance indicators to HAB. Despite the non-submission, HAB had not taken any follow-up actions to demand the submission of the reports (paras. 3.19, 3.20 and 3.22);
 - (b) ***Need to monitor achievements of performance indicators.*** Audit examined the reports submitted by SF&OC and MCOHL to HAB in the period 2014-15 to 2018-19. Audit found that the Office of HKADC and MCOHL had failed to achieve some of the stipulated performance indicators (i.e. the Office of HKADC failed to achieve one performance indicator in each year during the period, and MCOHL failed to achieve one performance indicator in 2018-19). Both SF&OC and MCOHL had not provided any explanations for not achieving the performance indicators. There was also no evidence indicating that HAB had taken any follow-up actions (para. 3.24);
 - (c) ***Need to improve the reporting of achievements.*** In examining the achievements against performance indicators reported by SF&OC and MCOHL in 2018-19, Audit found that there were differences between the reported achievements and the achievements ascertained by Audit (e.g. for the performance indicator “conducting anti-doping tests”, the reported achievement was 560 tests, which included unsuccessful attempts for conducting anti-doping tests. The achievement ascertained by Audit was only 492 tests) (para. 3.26);

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- (d) ***Need to disclose staff remuneration.*** Under the subvention agreement, MCOHL is required to make public disclosure of the remuneration of staff of the top three tiers of MCOHL in its annual report. Audit examined the annual reports submitted by MCOHL to HAB in the period 2014-15 to 2018-19 and found that the remuneration had not been disclosed. There was no evidence indicating that HAB had taken any follow-up actions on the non-disclosure. Audit found that, in 2018-19, the remuneration amounted to \$3.25 million (paras. 3.28 to 3.30); and
- (e) ***Scope for improvement in implementing the best practices in BPR.*** The issue of BPR, according to HAB, is also a specific measure for SF&OC to enhance its governance (see para. 4(a) above). Audit examined the extent to which SF&OC had implemented the best practices as laid down in BPR. Audit found that, up to 29 February 2020, 13 of the 73 best practices were pending implementation by SF&OC (i.e. 9 best practices on “board governance”, 1 best practice on “integrity management”, and 3 best practices on “administration of membership”) (para. 3.34).

Governance issues

12. ***Management of meetings and attendance.*** SF&OC is governed by the Board, which is supported by 29 committees. Each committee has dedicated functions (para. 4.2). Audit noted the following issues:

- (a) ***Need to review the frequency of committee meetings.*** According to SF&OC’s Articles of Association and its By-laws, for committees, meetings shall take place as and when required unless otherwise specified. In this regard, 7 committees have laid down their estimated frequency of meetings. In the period 30 March 2017 (date of incorporation of SF&OC) to 31 December 2019, SF&OC held a total of 60 meetings of the Board/committees. Audit examined the meetings held and noted that:
 - (i) for the 7 committees which had laid down their estimated frequency of meetings, in 6 committees, the numbers of meetings held were less than the estimated numbers. Of these 6 committees, 3 did not hold any meetings; and

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- (ii) for the other 22 committees (i.e. 29 minus 7) which had not laid down their frequency of meetings, according to SF&OC requirements, meetings shall take place as and when required. However, Audit noted that in the period, no meetings were held for 11 of the 22 committees (paras. 4.3 to 4.5);
 - (b) ***Room for improving attendance at meetings.*** For the Board and the 15 committees which held meetings in the period 30 March 2017 to 31 December 2019, Audit noted a decrease in members' attendance at meetings of the Board and 2 committees. For the Board, the attendance rate decreased from 83% in 2017 to 76% in 2019. For the 2 committees, the attendance rates decreased from 91% in 2017 to 73% in 2019, and from 100% in 2018 to 75% in 2019 respectively (para. 4.9);
 - (c) ***Need to take measures to encourage attendance.*** For the 15 committees which held meetings in the period 30 March 2017 to 31 December 2019, Audit noted that, each year, there were members who did not attend any meetings of the committees. The number of such members totalled 61, which was not conducive to the effective functioning of the Board/committees (paras. 4.12 and 4.13); and
 - (d) ***Need to regularise informal meetings.*** Audit examined, for the period 30 March 2017 to 31 December 2019, records of meetings of the Board and 3 committees. Audit found one case where the agenda and minutes had not been prepared for the meeting of a committee. Upon enquiry, SF&OC informed Audit that this was because the meeting was only an informal one. However, it was not entirely clear whether or not the meeting was informal. In particular, matters (e.g. working direction) were considered at the meeting and the Board was informed that the meeting in question was the first meeting of the committee concerned (para. 4.15).
13. ***Management of potential conflicts of interest.*** SF&OC has laid down requirements on the management of potential conflicts of interest (para. 4.19). Audit noted the following issues:
- (a) ***Need to expedite implementation of an enhancement practice.*** According to SF&OC, to enhance corporate governance, a "declaration of interest form" has been introduced since January 2013. The use of declaration forms (i.e. the enhancement practice) will be implemented gradually at

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committees which have power over selection (e.g. of athletes to participate in international multi-sports games) and financial matters. Audit noted that, as at the end of January 2020 (7 years had elapsed since the introduction of the enhancement practice), only 5 of the 29 committees had implemented the enhancement practice (paras. 4.20 and 4.21);

- (b) ***Room for improvement in implementing new measures.*** Since 2016, at the time of appointment of Officers of the Board, the appointees had been required to declare their interests, and sign the “Conflict of interest disclosure and confidentiality statement”. By the statement, the appointees undertook to disclose any potential or actual conflicts of interest, and to keep matters of the SF&OC confidential as necessary. The new measures had been progressively adopted among committees. As at the end of January 2020, of the 29 committees, only 3 had adopted the new measures (paras. 4.24 and 4.25); and
- (c) ***Need to record rulings and related deliberations.*** The examination of records of meetings of the Board and the 3 committees (see para. 12(d) above) also revealed that, in the period 30 March 2017 to 31 December 2019, interests were declared in 8 meetings. In 4 committee meetings, rulings on the declared interests as well as the deliberations related to the rulings were not documented, contrary to SF&OC requirements (para. 4.28).

Audit recommendations

14. **Audit recommendations are made in the respective sections of this Audit Report. Only the key ones are highlighted in this Executive Summary. Audit has *recommended* that the Executive Director, SF&OC should:**

Operation of SF&OC

- (a) **continue to make efforts to implement the best practices relating to the transparency in athletes selection as set out in BPR (para. 2.13(a));**
- (b) **more clearly publish the criteria for selecting athletes to participate in international games and properly document the justifications for selecting athletes (para. 2.13(b) and (c));**

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- (c) **explore the merit of establishing in Hong Kong similar appeal mechanisms as adopted in some advanced overseas countries and establishing a mechanism to gauge NSA members' compliance with the requirements of the Olympic Charter, the Code of Ethics of IOC, and SF&OC's Articles of Association (paras. 2.13(d) and 2.20);**
- (d) **closely monitor the slow progress of some English course participants and the progress of studies of athletes with approved HKACEP scholarships and their claiming of scholarships (para. 2.32(a) and (b));**
- (e) **ensure that initial notification letters/e-mails are always sent to athletes who have provided inaccurate whereabouts and could not be located for doping tests, updated whereabouts of athletes are provided to DCOs, and athletes are requested to provide explanations on why they could not be located (para. 2.39(a), (b) and (d));**
- (f) **lay down internal guidelines on the number of attempts to be made to locate an athlete for a doping test and step up efforts to locate athletes for doping tests (para. 2.39(c) and (e));**
- (g) **in consultation with HAB, review the areas of offices spaces in the Olympic House allocated to NSAs and reallocate as appropriate, consider standardising NSA staff's office space entitlement and explore the feasibility of converting some meeting rooms into office spaces (para. 2.53(a));**
- (h) **step up efforts in promoting the availability of the lecture theatre and the board room for public hiring (para. 2.53(b));**
- (i) **instead of restricting a particular brand, consider procuring other brands of products or services of similar qualities (para. 2.60(a));**
- (j) **lay down guidelines for reimbursements of expenses, and ensure that SF&OC procurement requirements are always followed (para. 2.60(b) and (c));**

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- (k) **in compelling circumstances where tendering is not conducted as required, ensure that approval is sought from the relevant authority and quotations are obtained (para. 2.60(d));**

Government funding and monitoring

- (l) **in consultation with HAB, rectify the inadequacies relating to the charging of management fee and the non-apportionment of office overheads between the affiliated companies and subvented programmes, and ensure no cross-subsidisation between subvented programmes and self-financing activities in future (para. 3.16(a) and (b));**
- (m) **ensure that all the required accounts and reports of MCOHL are submitted in accordance with the time schedules agreed with HAB and improve the reporting of achievements of performance indicators to HAB (para. 3.37(a) and (b));**
- (n) **make public disclosure of the remuneration of staff of the top three tiers of MCOHL (para. 3.37(c));**
- (o) **make further efforts to implement the best practices laid down in BPR (para. 3.37(d));**

Governance issues

- (p) **review the frequency of meetings of individual committees, take measures to improve attendance at meetings of the Board/committees and review the need for regularising any practices of holding informal meetings for the Board/committees (para. 4.17(a), (c) and (e));**
- (q) **consider extending the enhancement practice on declaration of interests to cover the Board, and expedite the implementation at individual committees (para. 4.30(a));**
- (r) **expedite the adoption of the new measures to further facilitate declaring interests among committees (para. 4.30(b)); and**

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- (s) ensure that committees document in minutes the rulings of interests declared at meetings as well as the deliberations related to the rulings (para. 4.30(d)).

15. Audit has *recommended* that the Secretary for Home Affairs should:

Operation of SF&OC

- (a) encourage SF&OC to implement the best practices set out in BPR relating to the transparency in athlete selection (para. 2.14(a));
- (b) in collaboration with SF&OC, map out the way forward for the Olympic House (para. 2.52(a));

Government funding and monitoring

- (c) continue to closely monitor the financial positions of SF&OC and MCOHL (para. 3.15(a));
- (d) ensure that recurrent subventions are disbursed to SF&OC on a timely basis and set scheduled dates of disbursement for MCOHL (para. 3.15(b) and (c));
- (e) ensure that the Financial Services and the Treasury Bureau is consulted for inclusion of MCOHL in the list of organisations receiving recurrent funding from the Government, and follow up accordingly (para. 3.15(d));
- (f) ensure that follow-up action is taken to consider appropriate extension of the deadline for submission of management accounts by MCOHL, and monitor the submission of accounts and reports by MCOHL (para. 3.36(a) and (b));
- (g) require SF&OC and MCOHL to provide explanations for any under-achievements of performance indicators (para. 3.36(c));

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- (h) **ensure that MCOHL makes public disclosure of the remuneration of staff of the top three tiers of MCOHL (para. 3.36(d)); and**
- (i) **encourage SF&OC to adopt the best practices laid down in BPR (para. 3.36(f)).**

Response from the Government and SF&OC

16. The Secretary for Home Affairs and SF&OC agree with the audit recommendations.

CHAPTER 3

Labour and Welfare Bureau Employees Retraining Board

Employees Retraining Board

**Audit Commission
Hong Kong
2 April 2020**

This audit review was carried out under a set of guidelines tabled in the Provisional Legislative Council by the Chairman of the Public Accounts Committee on 11 February 1998. The guidelines were agreed between the Public Accounts Committee and the Director of Audit and accepted by the Government of the Hong Kong Special Administrative Region.

Report No. 74 of the Director of Audit contains 8 Chapters which are available on our website at <https://www.aud.gov.hk>

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EMPLOYEES RETRAINING BOARD

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EMPLOYEES RETRAINING BOARD

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1. In 1992, the Employees Retraining Board (ERB) was established as a statutory body under the Employees Retraining Ordinance (ERO — Cap. 423). Under ERO, the functions of ERB are, inter alia, to consider the provision, administration and availability of retraining courses and supplementary retraining programmes intended or designed for the benefit of eligible employees in adjusting to changes in the employment market by acquiring new or enhanced vocational skills, and to engage the services of training bodies for the purpose of providing or conducting retraining courses. Since December 2007, ERB has extended its scope of service targets to include people aged 15 or above with education attainment at sub-degree level or below. The governing body of ERB is its Board. ERB has established six Committees and an Investment Group to carry out different functions. As at 31 December 2019, ERB had 195 permanent staff and 60 contract and temporary staff. In 2018-19, ERB's income was \$637.3 million and the expenditure was \$949.3 million. The Audit Commission (Audit) has recently conducted a review of ERB.

Management of training services

2. ***Decreasing number of young trainees admitted to ERB courses.*** Audit noted that in the period from 2014-15 to 2018-19: (a) the percentages of young trainees aged 15 to 29 admitted to ERB training courses among all trainees were not high (ranging from 8.4% to 12.2%); (b) the number and percentage of such young trainees decreased from 13,423 (12.2%) in 2014-15 to 10,695 (8.4%) in 2018-19; and (c) the number of trainees admitted under youth training courses was low, ranging from 374 to 508, averaging 441, and decreased by 19% from 508 in 2014-15 to 412 in 2018-19 (paras. 2.5 and 2.6).

3. ***Decreasing number of ethnic minorities admitted to ERB courses.*** Audit analysed the utilisation of planned places of courses for special targets for the years 2014-15 to 2018-19 and noted that: (a) the number of admitted trainees of ethnic minorities was low, decreasing from 374 in 2014-15 to 225 in 2018-19; (b) the utilisation of planned places of courses for ethnic minorities decreased from 47% in 2014-15 to 28% in 2018-19; and (c) despite the fact that less than half of the planned

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places were utilised and the decrease in the number of admitted trainees of ethnic minorities, the number of planned places had not been adjusted (para. 2.8).

4. ***Need to review the retraining allowances for placement-tied courses.*** For placement-tied courses with duration of seven days or more, trainees are eligible for retraining allowances if their attendance rates reach 80% or more. The retraining allowances per day for different categories of courses and different trainees ranged from \$30 to \$153.8. Audit noted that no review on the existing rates of retraining allowances had been conducted for over 10 years since April 2009. In view of the decreasing number of young trainees admitted to ERB training courses, ERB needs to review the existing rates of retraining allowances (paras. 2.10, 2.12 and 2.13).

5. ***Room for improvement in new course development.*** Audit examined 16 of the 274 new courses approved in the period from 2014-15 to 2018-19 and noted that: (a) the information regarding the availability of similar courses in the market and the competitiveness of the proposed courses in comparison with those existing in the market was not included in the course proposals and the papers submitted to the Course and Service Development Committee; and (b) there was inconsistency in proposals for courses developed by ERB and training bodies. Training bodies were required to state the number of classes proposed, but such information was not required for courses developed by ERB (para. 2.16).

6. ***Some training courses not suspended although no classes were held for many years.*** According to the ERB Guidelines, training courses for general trainees will be considered for suspension if no class has been held continuously for three years. Audit found that of the 36 courses with no classes held for three years from 2014-15 to 2016-17, the Course Management Working Group approved not to suspend 34 (94%) of the courses. However, for 2 (6%) of the 36 courses, there was no evidence showing that the Course Management Working Group approved not to suspend them. Audit also noted that the Course and Service Development Committee and Course Vetting Committee were not provided with information on the course suspension (paras. 2.18, 2.21 and 2.22).

7. ***Long waiting times of courses for some applicants.*** Training courses are held at the training centres of training bodies in various districts. Each training centre maintains its own waiting lists of applicants for the training courses. As at 31 December 2019, there were 52,659 applicants on the waiting lists (comprising

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10,661 applicants for placement-tied courses and 41,998 applicants for non-placement-tied courses). Audit found that: (a) of the 10,661 applicants for placement-tied courses, 2,172 (20%) had been on the waiting lists for more than four months (i.e. the waiting time specified in the performance pledge); and (b) of the remaining 41,998 applicants for non-placement-tied courses, 14,526 (35%) had been on the waiting lists for more than five months (i.e. the waiting time specified in the performance pledge) (para. 2.27).

8. ***Some training courses did not meet targets on key performance indicators (KPIs).*** Audit analysed the performance of KPIs for the period from 2014-15 to 2018-19 and noted that some training courses did not meet the performance targets: (a) of the 2,525 training courses held during the period, 336 (13.3%) did not meet the target capacity utilisation rate of 85%; (b) of the 2,516 training courses with classes completed during the period, 230 (9.1%) did not meet the target attendance rate of 80%; (c) graduation rate has been set as a KPI since 2015-16. Of the 2,020 training courses with classes completed in the period from 2015-16 to 2018-19, 159 (7.9%) did not meet the target graduation rate of 80%; and (d) of the 744 placement-tied courses for general trainees, persons with disabilities and persons recovered from work injuries, and youth training courses, 52 (7%) did not meet the target placement rate of 70%. Of the 118 placement-tied courses for ethnic minorities, rehabilitated ex-offenders and new arrivals, 31 (26.3%) did not meet the target placement rate of 50% (paras. 2.33 to 2.37).

9. ***Some training courses did not meet targets on reference indicators.*** Audit analysed the performance of reference indicators for the period from 2014-15 to 2018-19 and noted that some training courses did not meet the performance targets and the overall retention rate decreased: (a) of the 825 applicable placement-tied courses, 602 (73%) did not meet the target relevancy rate to training of 60%; (b) of the 190 placement-tied courses aiming at full-time employment in the period from 2015-16 to 2018-19, 60 (32%) did not meet the target continuous employment rate of 60%; and (c) the overall retention rate for placement-tied courses decreased from 64% in 2014-15 to 61% in 2018-19 (paras. 2.40 to 2.43).

Quality assurance

10. ***Annual audits not performed according to ERB Guidelines.*** According to the ERB Guidelines, if a training body obtained Group 1 rating in the on-site annual

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audits performed by ERB in the last two consecutive years, the training body will be allowed to undertake self-evaluation for one year. Audit noted that, of the 367 annual audits conducted in the period from 2014-15 to 2018-19, 127 (35%) were self-evaluations. However, of these 127 self-evaluations, 60 (47%) self-evaluations were performed by training bodies which did not obtain Group 1 rating in the on-site annual audits performed by ERB in the last two consecutive years (paras. 3.3 and 3.4).

11. ***Class surprise inspections not conducted for some training centres.*** According to the ERB quality assurance guidelines, training centres where ERB courses have been held will be selected for class surprise inspections at least once a year. However, Audit noted that for every year in the period from 2016-17 to 2018-19, two training centres were not inspected as required (paras. 3.7 and 3.8).

12. ***Need to improve course-end assessments.*** Audit reviewed the results of 50 assessment observations on course-end assessments conducted by ERB in the period from 2015-16 to 2018-19 and noted that there were non-compliances with assessment guidelines in 10 assessment observations. Audit found room for improvement in the follow-up actions taken by ERB on their results of assessment observations (para. 3.11). Examples are as follows:

- (a) ***Foundation Certificate in Dim Sum Cook Training Course.*** According to the guidelines on course-end assessments, candidates should complete the assessment within the time allowed. For the Foundation Certificate in Dim Sum Cook Training Course held in 2017-18, ERB found that trainees were allowed to prepare the custard stuffing prior to the commencement of the assessments. ERB subsequently found that the assessor had let trainees prepare the stuffing prior to the commencement of the assessments since June 2015 involving 5 classes. No re-assessments were conducted for the trainees involved (para. 3.11(a)); and
- (b) ***Certificate in Health Worker Training Course.*** According to the assessment observation report, the practical skills assessment for the Certificate in Health Worker Training Course held in 2015-16 was not conducted in accordance with the ERB Guidelines as follows:
 - (i) nasotracheal suction skills were not tested for a trainee;
 - (ii) the assessor allowed a trainee to verbally spell out the procedures of wound cleansing;
 - (iii) the assessor did not verify the accuracy in the test of medicine

Executive Summary

distribution for two trainees; and (iv) taking correct volume of liquid medicine was not tested. No inspections were conducted to follow up whether improvement measures had been taken (para. 3.11(b)).

13. ***Decreasing number and percentage of accredited training courses.*** Audit reviewed the training courses with enrolled trainees and analysed the percentages among those courses that were accredited by the Hong Kong Council for Accreditation of Academic and Vocational Qualifications. Audit found that in the period from 2014-15 to 2018-19: (a) the number of accredited courses decreased from 469 to 308; and (b) the percentage of accredited courses among courses with enrolled trainees decreased from 95% to 58% (para. 3.18).

Training support services

14. ***Few tenders received for operation of Service Centre and Service Spots.*** ERB procured the services for operation of the Service Centre and the Service Spots by restricted tendering. Invitations for tender were issued to the prospective service providers which fulfilled the prescribed requirements and conditions of the tender exercises for the operation of the Service Centre and the Service Spots as approved by the Course and Service Development Committee of ERB. Audit examination of the tender exercises for the operation of the Service Centre (Tin Shui Wai) and the Service Spots conducted in the period from 2011 to 2019 revealed that the responses from the service providers were lukewarm in the period from 2015 to 2019 (paras. 4.5 and 4.6):

- (a) ***Service Centre (Tin Shui Wai).*** In 2011, ten tenders (including only five conforming tenders) were received in response to the 95 invitations for tender issued for the operation of the Service Centre (Tin Shui Wai). In 2015, in response to the 96 invitations for tender issued, only two tenders were received. Of these two tenders, only the tender from the incumbent service provider was a conforming tender. In response to the 51 invitations for tender issued in 2019, only one tender, which was a conforming tender, was received from the incumbent service provider (para. 4.6(a));
- (b) ***Service Spots (Kwai Tsing and Tsuen Wan).*** In response to the 19 invitations for tender issued for the operation of the Service Spots (Kwai Tsing and Tsuen Wan) in 2015, five tenders (including only one conforming tender) were received. In 2019, in response to the 13 invitations for tender

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issued, only one tender, which was a conforming tender, was received from the incumbent service provider (para. 4.6(b));

- (c) ***Service Spots (Kowloon West).*** In 2017, of the 35 invitations for tender issued for the operation of the Service Spots (Kowloon West), only two tenders (both were conforming tenders) were received (para. 4.6(c)); and
- (d) ***Service Spots (Kowloon East).*** In 2018, of the 21 invitations for tender issued for the operation of the Service Spots (Kowloon East), only one tender, which was a conforming tender, was received (para. 4.6(d)).

15. ***Need to endeavour to improve performance of the operators of Smart Living Scheme.*** Service targets are set out in the engagement agreements signed between ERB and the operators for the operation of Smart Living – Regional Service Centres under the Smart Living Scheme. Audit examination of the achievement of the overall annual service targets of the Smart Living Scheme for the period from 2014-15 to 2018-19 revealed that: (a) the overall annual service target on the number of vacancies registered was not met for all five years; (b) the overall annual service target on the number of vacancies filled was not met for 2016-17 and 2018-19; and (c) except for 2017-18, the overall annual service target on the number of helpers placed was not met for the other four years. Audit further examined the achievement of the annual service targets and required annual composite performance scores by individual Smart Living – Regional Service Centres for the period from 2014-15 to 2018-19. Audit found that the annual service targets on the number of vacancies registered, vacancies filled and helpers placed were not met by 5 to 10, 4 to 7 and 4 to 8 Smart Living – Regional Service Centres respectively. For 2 to 5 Smart Living – Regional Service Centres, the required annual composite performance score of 90 was not met (paras. 4.13, 4.15 and 4.16).

16. ***Need to closely monitor the performance of operators of Smart Living Scheme.*** According to the Operation Guidelines for the Smart Living Scheme, if an operator has a composite performance score below 80 for two quarters within a year, ERB may consider terminating the agreement unless the operator improves and achieves at least 80 marks in the following month upon written request. Audit examined the scores of the operators of the eight Smart Living – Regional Service Centres for the first two quarters of 2019-20 and noted that three operators had a score below 80: (a) Operator A scored 67 and 68 in the first and the second quarter respectively; (b) Operator B scored 69 and 67 in the first and the second quarter

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respectively; and (c) Operator C scored 75 and 67 in the first and the second quarter respectively. These three operators achieved none of the three service targets in both the first and the second quarters of 2019-20 (paras. 4.19 and 4.20).

17. ***Some service requirements in respect of KPIs of Smart Baby Care Scheme not met.*** According to the engagement agreements signed between ERB and the operator for the operation of the Smart Baby Care Scheme, service requirements are set out in the agreement in respect of six KPIs and in the event that the KPI performance is not achieved, ERB may regard it as a fundamental breach. Audit analysed the achievement of service requirements in the period from 2016-17 to 2018-19 and found that service requirements were not met for two KPIs: (a) the service requirement on the number of vacancies registered was not met in all the three years during the period; and (b) the service requirement on the satisfaction rate of employers on the services of fresh graduates was not met in 2016-17 (paras. 4.25 and 4.27).

Corporate governance and administrative issues

18. ***Late circulation of agendas of Board/Committee meetings.*** Audit examined the records of the 129 Board/Committee meetings conducted during the period from 2014-15 to 2018-19 and found that 14 (10.9%) of the 129 meeting agendas were circulated to members less than one week before the meetings as required by the ERB Guidelines. The delays ranged from 1 to 3 days (averaging 2 days) (para. 5.4).

19. ***Late issue of minutes of Board/Committee meetings.*** In 2011, ERB said that it would ensure that draft minutes of Board/Committee meetings would be issued within one month after the meetings. Audit noted that the ERB Guidelines had not stipulated a time target. Audit examined the records of draft minutes of the Board/Committee meetings conducted during the period from 2014-15 to 2018-19 and found that 10 (7.8%) of the 129 draft minutes were not issued within one month after the meetings. The delays ranged from 1 to 10 days, averaging 4 days (paras. 5.5 and 5.6).

20. ***Need to enhance procedures of making declarations of interests by Board/Committee members.*** According to the ERB Guidelines, members (including the Board Chairman, Board/Committee members and co-opted members of the

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Committees) should submit written declarations of interests to the Executive Office of ERB at the time of their appointments or re-appointments. Audit examined the records of declaration of interest for the period from 2015-16 to 2019-20 and noted the following issues (paras. 5.10 and 5.11):

- (a) ***Requests for declarations of interests not issued in a timely manner.*** ERB sent the requests to Board members on average 74 days, ranging from 22 to 228 days, subsequent to the Board appointments or re-appointments. For non-Board co-opted members of the Committees, the requests were made on average 57 days, ranging from 2 to 196 days, after their appointments. Of the 118 meetings held in the period from 2015-16 to 2019-20 (up to 31 October 2019), 31 (26.3%) were held before the submission deadlines of the declarations of interests (para. 5.11(a)); and
- (b) ***Late submission of declarations of interests.*** Of the 92 declarations submitted by Board/Committee members for the period from 2015-16 to 2019-20, 17 (18.5%) were submitted after the submission deadlines stipulated by ERB. The delays ranged from 1 to 160 days, averaging 43 days (para. 5.11(b)).

21. ***Need to keep in view the increase in staff turnover rate.*** As at 31 October 2019, the staff establishment and staff strength of ERB were 268 staff and 252 staff respectively. Audit examined the annual staff turnover rates for the period from 2014-15 to 2018-19 and found that the rate decreased from 8.3% in 2014-15 to 5.4% in 2017-18 but increased significantly to 10.4% in 2018-19 (paras. 5.15 and 5.16).

22. ***Need to enhance the review on senior staff remuneration.*** According to the Memorandum of Administrative Arrangements, ERB should at each interval of not more than three years, submit a review report to the Secretary for Labour and Welfare on the review of the top three tiers of staff remuneration packages to ensure that such senior staff remuneration packages are appropriate. Audit examined the latest senior staff remuneration review report and noted that ERB only included cash remuneration in the review report. Non-cash benefits and retirement benefits, which were also part of the staff remuneration packages, were not reported (paras. 5.18 and 5.20).

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23. ***Need to monitor the financial condition of ERB.*** In February 2014, the Government injected a sum of \$15 billion into the Employees Retraining Fund (ERF) primarily as seed money for generating investment income to finance the services and operation of ERB on a long-term basis. Audit examined the financial condition of ERB in the period from 2014-15 to 2018-19 and noted that: (a) ERB incurred a deficit every year, ranging from \$142 million to \$401 million (averaging \$296 million); and (b) the balance of ERF decreased by \$1,478 million (9%) from \$16,280 million as at 1 April 2014 to \$14,802 million as at 31 March 2019. According to the estimation made by ERB, the balance of ERF would further decrease to \$8,330 million in February 2026 (paras. 5.26 to 5.28).

24. ***Majority of recoverable financial incentives could not be recovered.*** To encourage enrolment and provide assistance to persons in need, ERB provides financial incentives in the form of retraining allowances and course fee reduction for trainees attending placement-tied courses and non-placement-tied courses respectively. ERB would recover the financial incentives from trainees of non-placement-tied courses who failed to achieve 80% attendance rate and trainees who are found to have provided false information. Audit found room for improvement in recovering of financial incentives, as follows (paras. 5.32 and 5.33):

- (a) ***Need to explore effective measures to encourage attendance and deter provision of false information.*** In the period from 2014-15 to 2018-19, the amount of recoverable financial incentives written off was \$12 million, ranging from \$2.2 million to \$2.6 million each year. According to ERB's estimation, about 70% of recoverable financial incentives were subsequently written off. The failure to recover the majority of financial incentives indicated that the effectiveness of encouraging attendance and deterring the provision of false information was doubtful (paras. 5.34 and 5.35);
- (b) ***Need to rationalise the follow-up actions taken by ERB.*** Three Sections of ERB, namely the Finance & Accounts Section, the Course Administration Section and the Quality Enhancement Section were responsible for taking actions to recover the financial incentives provided to trainees. Audit noted that there were differences among the follow-up actions taken by the three Sections (para. 5.36); and
- (c) ***Need to step up efforts to refer cases of provision of false information to law enforcement authorities.*** Provision of false information dishonestly

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could amount to an offence under ERO and the Theft Ordinance (Cap. 210). Audit examined ERB's records in the period from 2014-15 to 2018-19 and noted that it did not refer any cases of provision of false information to law enforcement authorities for legal actions. Although the ERB Guidelines stipulated that ERB would refer the suspected fraud cases to relevant authorities for possible legal actions when warranted, as of March 2020, no such case was spotted by ERB (para. 5.38).

25. *Need to improve the inventory check procedures.* According to ERB's Guidelines on Stores Management, inventory checks (including full-scale inventory check and surprise inventory check) were conducted by the inventory holders or their designated officers. Such practice lacked independence and was not conducive to effective inventory control (paras. 5.43 and 5.44).

Audit recommendations

26. **Audit recommendations are made in the respective sections of this Audit Report. Only the key ones are highlighted in this Executive Summary. Audit has *recommended* that the Executive Director, ERB should:**

Management of training services

- (a) **step up efforts to improve the popularity of training services for young people (para. 2.23(b));**
- (b) **step up efforts to enhance the attractiveness of training services for ethnic minorities (para. 2.23(d));**
- (c) **review the existing rates of retraining allowances (para. 2.23(e));**
- (d) **provide in the course proposals and the papers submitted to the Course and Service Development Committee information regarding the competitiveness of proposed courses, and rationalise the information requirements for the proposals of courses developed by ERB and those developed by training bodies (para. 2.23(f) and (g));**

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- (e) ensure that courses are suspended according to the ERB Guidelines (para. 2.23(h));
- (f) shorten the waiting times before the applicants can commence training (para. 2.29);
- (g) continue to monitor the performance of training courses on various KPIs and reference indicators (para. 2.45(a));

Quality assurance

- (h) ensure that on-site annual audits and self-evaluations are conducted according to the ERB Guidelines (para. 3.13(a));
- (i) ensure that class surprise inspections are conducted for training centres according to the ERB Guidelines (para. 3.13(c));
- (j) ensure that the course-end assessments are conducted by training bodies in accordance with the ERB Guidelines (para. 3.13(d));
- (k) consider whether remedial actions are necessary for those trainees who have passed the assessment but the assessment has not been conducted according to the ERB Guidelines (para. 3.13(f));
- (l) increase the number of accredited training courses (para. 3.20);

Training support services

- (m) enhance competition in the tender exercises for operation of the Service Centre and the Service Spots (para. 4.9);
- (n) improve the performance of the operators of the Smart Living Scheme (para. 4.30(a));
- (o) enhance the popularity of the Smart Baby Care Scheme and improve the performance of the operator (para. 4.30(c));

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Corporate governance and administrative issues

- (p) circulate the meeting agendas to Board/Committee members in a timely manner and set a time target for the issue of draft meeting minutes (para. 5.12(a) and (b));
- (q) enhance procedures of making declarations of interests by Board/Committee members (para. 5.12(e));
- (r) keep in view the staff turnover rate and explore feasible measures to address the issue if the high turnover rate persists (para. 5.21(a));
- (s) include non-cash and retirement benefits in the senior staff remuneration review report (para. 5.21(b));
- (t) in collaboration with the Labour and Welfare Bureau, monitor the financial condition of ERB (para. 5.29);
- (u) explore other effective measures to encourage trainees to achieve a high attendance rate and to deter them from providing false information (para. 5.39); and
- (v) consider improving the inventory check procedures and enhance the effectiveness of the checks as far as practicable (para. 5.45(b)).

Response from ERB and the Government

27. The Executive Director, ERB agrees with the audit recommendations. The Secretary for Labour and Welfare has said that the Labour and Welfare Bureau will take appropriate follow-up actions on the audit recommendations relating to the Labour and Welfare Bureau and will provide the necessary support for ERB to implement the proposed improvement measures.

PART 1: INTRODUCTION

1.1 This PART describes the background to the audit and outlines the audit objectives and scope.

Background

1.2 In 1992, the Employees Retraining Board (ERB) was established as a statutory body under the Employees Retraining Ordinance (ERO — Cap. 423). Under ERO, the functions of ERB are, inter alia, to consider the provision, administration and availability of retraining courses (Note 1) and supplementary retraining programmes (Note 2) intended or designed for the benefit of eligible employees (Note 3) in adjusting to changes in the employment market by acquiring new or enhanced vocational skills, and to engage the services of training bodies for the purpose of providing or conducting retraining courses. The functions of ERB under ERO are shown at Appendix A.

Original objective and service targets

1.3 Upon its inception in 1992, ERB administered the Employees Retraining Scheme. Prior to June 1997, the objective of the Employees Retraining Scheme was to retrain workers who were displaced as a result of economic restructuring so that they could acquire new skills to adjust to changes in the labour market. Apart from

Note 1: *Under ERO, a retraining course is a course provided or conducted by a training body for the purpose of training or retraining trainees to acquire new or enhanced vocational skills.*

Note 2: *Under ERO, a supplementary retraining programme is a programme approved by ERB and provided or conducted by a training provider for the purpose of training or retraining eligible employees to acquire new or enhanced vocational skills or to facilitate their employment.*

Note 3: *Under ERO, an eligible employee is an employee who is the holder of an identity card or a certificate of exemption and is not subject to any condition of stay (other than a limit of stay) and is not in breach of any limit of stay. Employee has the same meaning as in section 2(1) of the Employment Ordinance (Cap. 57), and includes a former employee and any person who wishes to take up employment as an employee after attending a retraining course or a supplementary retraining programme.*

Introduction

the displaced workers, ERB's service targets also included people with disabilities, people recovered from industrial accidents, as well as the elderly.

New missions and expanded scope of services

1.4 Owing to the changing structure of the Hong Kong economy, the Government completed a consultancy review on the Employees Retraining Scheme in June 1997. The major recommendation of the review was that ERS should focus on providing retraining to people aged 30 or above with no more than junior secondary education, so as to help them find jobs and sustain their employment. After the review, ERB's primary service target groups were the unemployed aged 30 or above with education attainment of Secondary 3 or below. ERB also provided its services to home makers, new arrivals and people with chronic illnesses who intended to re-enter the job market, as well as those eligible in-service workers who wished to enhance their generic skills. Since December 2007, ERB has further extended its scope of service targets to include people aged 15 or above with education attainment at sub-degree level or below (see para. 2.4(c)).

1.5 In January 2008, ERB completed a strategic review on its future role and functions and released a public consultation document. The consultation document recommended that ERB should provide more comprehensive and diversified training and retraining services for the local labour force. In July 2008, ERB rebranded the Employees Retraining Scheme as "Manpower Development Scheme" to better reflect its new missions and scope of services. Taking into account the views and comments received during the public consultation period, ERB submitted its recommendations on its future directions to the Government. In March 2009, the Chief Executive-in-Council endorsed the recommendations of the strategic review on the future directions of ERB for implementation in phases as follows:

- (a) strengthen research and set up a human resources database, reinforce liaison and communication with employers and all stakeholders, and promote skills assessment and professional certification to fortify recognition;
- (b) diversify the scope of training courses to cater for new target groups, improve training content and extend training hours, incorporate work experience in training courses, enhance quality assurance and cost effectiveness, and pilot one-stop training cum employment resource centre;

- (c) strengthen the articulation of training courses and offer training on skills upgrading, strengthen partnership and consultative networks with industries, provide recruitment and training services to employers, make use of training allowances effectively, and establish service brands, create employment opportunities, incubate social enterprises; and
- (d) provide appropriate training and employment services to the disadvantaged groups (including non-engaged youths, the disabled and people who had recovered from work injuries, ex-offenders, new arrivals and ethnic minorities) and pilot Employment Set Sail Course (Note 4).

Governance and organisation structure

1.6 The governing body of ERB is its Board. According to ERO, the Board consists of:

- (a) a Chairman;
- (b) a Vice-Chairman;
- (c) not more than four other members who represent employers;
- (d) not more than four other members who represent employees;
- (e) not more than four other members who are connected with vocational training and retraining or manpower planning; and
- (f) not more than three other members who are public officers.

Note 4: *The pilot Employment Set Sail Course was to help new arrivals from the Mainland and ethnic minorities to enter the employment market and achieve their full potential. The objective was to facilitate their integration to the society and help them set clear career objective.*

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The members of the Board shall be appointed by the Chief Executive of the Hong Kong Special Administrative Region (Note 5). As at 31 December 2019, the Board had 16 members including two public officers, namely the Permanent Secretary for Labour and Welfare and the Commissioner for Labour.

1.7 ERB has established six Committees and an Investment Group to carry out different functions (see Appendix B). The six Committees are:

- (a) Course and Service Development Committee;
- (b) Course Vetting Committee;
- (c) Quality Assurance and Review Committee;
- (d) Public Relations and Promotion Committee;
- (e) Finance and Administration Committee; and
- (f) Audit Committee.

1.8 Under ERO, the Board is empowered to appoint employees on such terms and conditions of service as it thinks fit. As at 31 December 2019, ERB had 195 permanent staff and 60 contract and temporary staff. The Executive Office is under the leadership of the Executive Director (ED), who is underpinned by four Divisions and an Internal Audit Section. Each Division is headed by a Deputy ED. The Internal Audit Section reports directly to the Audit Committee. The organisation chart of ERB as at 31 December 2019 is shown at Appendix C.

Funding of ERB

1.9 The major sources of funding of ERB include:

Note 5: *The authority of the Chief Executive to appoint members of the Board, other than the Chairman and the Vice-Chairman, has been delegated to the Secretary for Labour and Welfare since 2007.*

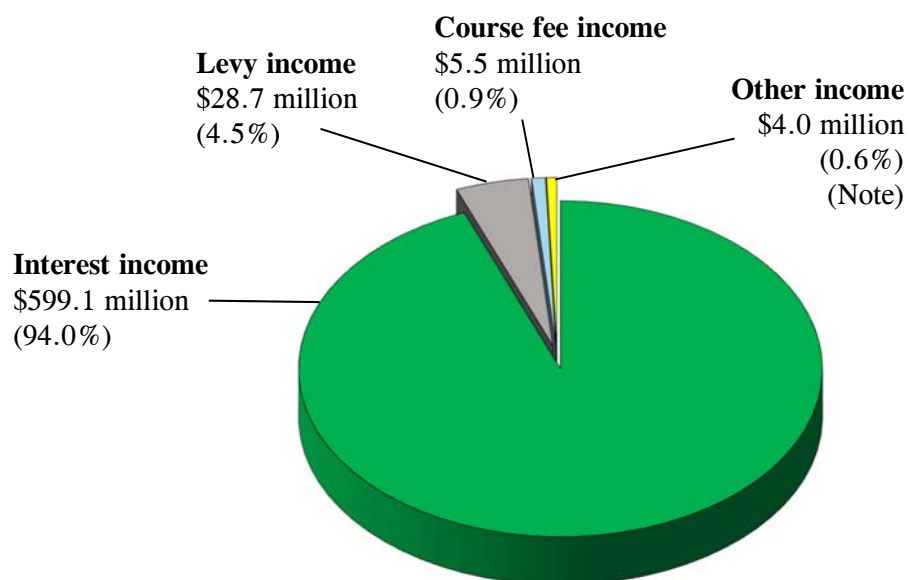
- (a) ***Government injections.*** During its initial years of operation, ERB received in total capital block grants of \$1.6 billion. Every year in the period from 2001-02 to 2007-08, ERB received an annual recurrent subvention of about \$400 million. In February 2014, in order to provide sustained and stable financial support for ERB, the Government injected \$15 billion into the Employees Retraining Fund (ERF) administered by ERB primarily as seed money for generating investment income to finance the services and operation of ERB on a long-term basis. As at 31 March 2019, ERF had a balance of \$14.8 billion. In 2018-19, interest income derived from ERF contributed 94% of the total income of ERB; and
- (b) ***Employees Retraining Levy.*** To finance its activities, ERB receives Employees Retraining Levy from employers of imported labour under labour importation schemes designated under ERO. The levy payable for each imported employee is \$400 multiplied by the number of months covered by the employment contract up to a maximum of 24 months. The levy goes to ERF for providing training and retraining to local workers. The Supplementary Labour Scheme and the importation of foreign domestic helpers were approved as labour importation schemes under ERO in 1996 and 2003 respectively. In November 2008, the Chief Executive-in-Council decided to suspend the collection of the Employees Retraining Levy for a period of five years from 1 August 2008 to 31 July 2013. In May 2013, the Chief Executive-in-Council decided that the Employees Retraining Levy imposed on foreign domestic helpers would be abolished upon the expiry of the suspension period. Employers seeking to import labour under the Supplementary Labour Scheme are subject to levy payment from 1 August 2013. In 2018-19, levy income contributed 4.5% of the total income of ERB.

Income and expenditure

1.10 In 2018-19, ERB's total income was \$637.3 million (see Figure 1) and the total expenditure was \$949.3 million (see Figure 2). The deficit for the year was \$312 million.

Figure 1

**Analysis of total income of ERB of \$637.3 million
(2018-19)**

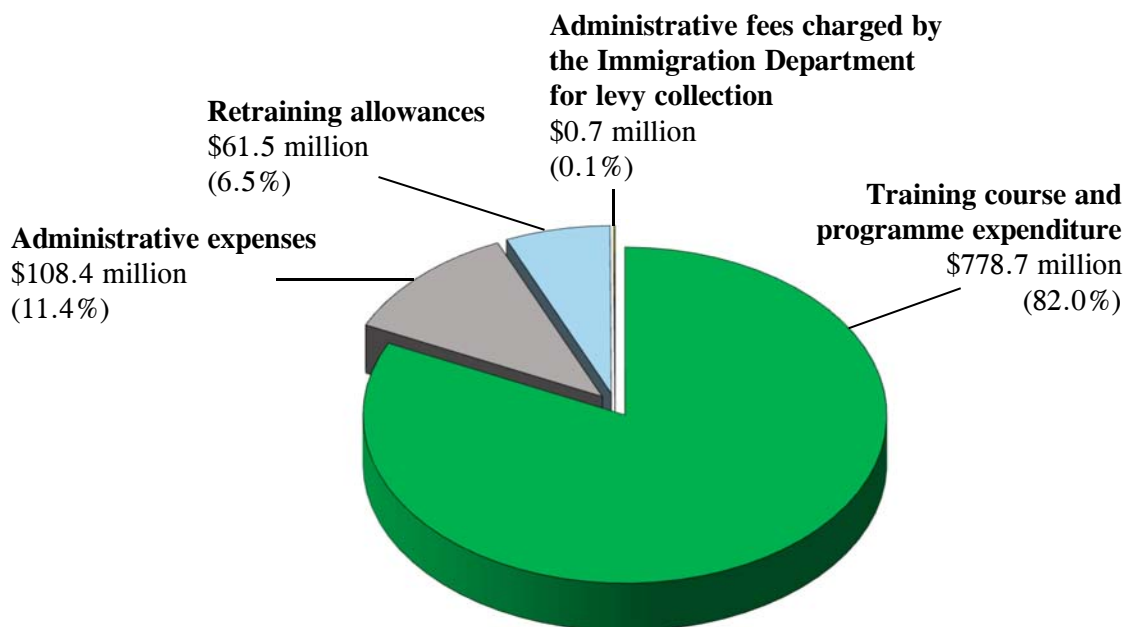


Source: ERB records

Note: Other income was mainly accreditation grant from the Education Bureau.

Figure 2

**Analysis of total expenditure of ERB of \$949.3 million
(2018-19)**



Source: ERB records

Memorandum of Administrative Arrangements

1.11 The Government and ERB have entered into a Memorandum of Administrative Arrangements (MAA) (Note 6). MAA provides a framework for the relationship between the Government and ERB and sets out the responsibilities of each party in detail. According to MAA:

- (a) ERB should have flexibility in utilising its funds and resources insofar as it is compatible with the provisions of ERO and MAA;
- (b) the role of the Secretary for Labour and Welfare in relation to the work of ERB is to ensure that ERB's activities accord with the Government's relevant policies and priorities and that the activities are properly and effectively planned, delivered and evaluated;

Note 6: *The first MAA between the Government and ERB was entered into in September 2001. The MAA was revised in September 2014.*

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- (c) as the Government's policy secretary overseeing the work of ERB, the Secretary for Labour and Welfare is responsible for ensuring that the policy objectives of ERB are appropriate, and that they remain so in the light of changing circumstances;
- (d) ERB is responsible for the administration of those activities for which it has statutory executive authority, overseeing the work of training bodies and training providers engaged to provide retraining courses and services as provided under ERO, and the administration of ERF; and
- (e) ERB should submit to the Secretary for Labour and Welfare for approval annually a programme of its activities and estimates of income and expenditure ("the Annual Plan") for the coming financial year.

ERB Guidelines

1.12 ERB issues a set of Guidelines (ERB Guidelines) for its training bodies and staff to follow in carrying out their work. The areas covered by the ERB Guidelines include:

- (a) training services;
- (b) quality assurance;
- (c) training support services; and
- (d) other administrative matters.

Audit review

1.13 In 2000, the Audit Commission (Audit) completed a review of the Employees Retraining Scheme and reported the results in Chapter 9 of the Director of Audit's Report No. 35 of October 2000. In 2011, Audit completed a review of ERB and reported the results in Chapter 2 of the Director of Audit's Report No. 57 of October 2011.

1.14 In November 2019, Audit commenced a review of ERB. The audit has focused on the following areas:

- (a) management of training services (PART 2);
- (b) quality assurance (PART 3);
- (c) training support services (PART 4); and
- (d) corporate governance and administrative issues (PART 5).

Audit has found room for improvement in the above areas and has made a number of recommendations to address the issues.

General response from ERB

1.15 ED, ERB thanks Audit for its effort in conducting the audit review of ERB. He has said that the Board welcomes Audit's recommendations and in particular the many useful and constructive recommendations made by Audit. ERB is committed to implementing the relevant recommendations as appropriate for the objective of continuous service improvement.

General response from the Government

1.16 The Secretary for Labour and Welfare welcomes the value-for-money review conducted by Audit on ERB. He has said that the Labour and Welfare Bureau (LWB) will take appropriate follow-up actions on the recommendations relating to LWB. LWB notes that ERB has also indicated agreement to the other recommendations made by Audit in respect of the daily operation of ERB. LWB will provide the necessary support for ERB to implement the proposed improvement measures.

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Acknowledgement

1.17 Audit would like to acknowledge with gratitude the full cooperation of the staff of LWB and ERB during the course of the audit review.

PART 2: MANAGEMENT OF TRAINING SERVICES

2.1 This PART examines the management of training services by ERB, focusing on the following areas:

- (a) planning and development of training courses (paras. 2.4 to 2.25);
- (b) managing waiting times for training courses (paras. 2.26 to 2.30); and
- (c) performance measurement (paras. 2.31 to 2.46).

Background

2.2 ERB co-ordinates, funds and monitors training courses and services offered by training bodies. The service targets of ERB are people aged 15 or above with education attainment at sub-degree level or below. In 2018-19, ERB provided 130,000 training places and appointed about 70 training bodies to provide around 800 training courses. There are six categories of training course:

- (a) ***Placement-tied courses.*** Placement-tied courses are provided for persons who are unemployed or non-engaged. These courses are generally offered in full-time mode and are free-of-charge. Trainees attending courses with duration of seven days or more may apply for retraining allowances. Trainees with an attendance rate of at least 80% are provided with three to six months' placement follow-up services upon completion of courses;
- (b) ***Skills upgrading courses.*** Skills upgrading courses are non-placement-tied courses provided to both the unemployed and in-service workers. The courses are offered in part-time mode and are fee-charging. Vocational and professional education and training straddling different industries are provided with the aim of enhancing the skills competency of practitioners and fostering their attainment of multi-dimensional skills. Non-practitioners may also enrol in individual courses which provide basic knowledge of the industries. The courses aim to broaden their employment opportunities through training and facilitate their job mobility. Trainees

who have no or low income may apply to waive the course fees in full or in part (Note 7);

- (c) ***Generic skills courses.*** Generic skills courses are non-placement-tied courses provided to eligible clientele including the unemployed and in-service workers. These courses are generally offered in half-day or evening mode and are fee-charging. Training of foundation skills (e.g. English, Chinese, Putonghua, and Information Technology Applications) and personal attributes applicable in different industries are provided in the courses. To assist trainees to acquire recognised qualifications and enhance their competitiveness, a series of preparatory courses for language proficiency tests are also offered under this course category. Trainees who have no or low income may apply to waive the course fees in full or in part (see Note 7 in (b));
- (d) ***Courses for special service targets.*** These courses aim at providing training and employment services to assist the special service targets, namely new arrivals, persons with disabilities and persons recovered from work injuries, ethnic minorities, rehabilitated ex-drug abusers and ex-offenders, to integrate into the society and achieve self-reliance. Some courses are placement-tied and some are non-placement-tied. Dedicated courses for the special service targets cover vocational and professional education and training, generic skills training and career planning;
- (e) ***Youth training courses.*** Youth training courses are operated in full-time placement-tied mode and comprise mainly courses under the Youth Training Programme. The Youth Training Programme targets at non-engaged youth aged between 15 and 24, with education attainment at secondary education level or below. The programme aims to rekindle their desire to learn and further study, and motivate them to actively plan for their future; and
- (f) ***Tailor-made courses.*** Employers that offer 12 or more vacancies in a particular position which requires special skills not readily available from placement-tied courses of ERB can apply to ERB to provide tailor-made

Note 7: *Trainees with monthly income of \$12,000 or below may apply for course fee waiver. Trainees with monthly income between \$12,001 and \$20,000 may apply for paying about 30% of the training costs.*

courses for them. The employers are required to employ at least 80% of those trainees who have an attendance rate of 80 % or above and have passed the assessment.

In 2018-19, the total cost of providing training courses was \$715.7 million and the number of trainees admitted was 126,936. The average training cost per trainee was \$5,638. The number of trainees admitted in each category of training courses in 2018-19 is shown in Table 1.

Table 1**Number of trainees admitted in training courses
(2018-19)**

Category	No. of trainees	Percentage
Placement-tied courses	42,964	33.8%
Skills upgrading courses	57,897	45.6%
Generic skills courses	22,069	17.4%
Courses for special service targets (Note 1)	3,563 (Note 2)	2.8% (Note 2)
Youth training courses (Note 3)	412	0.3%
Tailor-made courses (Note 4)	31	0.1%
Total	126,936	100.0%

Source: Audit analysis of ERB records

Note 1: Special service targets comprised ethnic minorities, new arrivals, rehabilitated ex-drug abusers and ex-offenders, persons with disabilities and persons who recovered from work injuries.

Note 2: In 2018-19, there were 3,563 (2.8%) trainees admitted in courses for special service targets, including 1,440 (1.1%) trainees admitted in placement-tied courses and 2,123 (1.7%) trainees admitted in non-placement-tied courses.

Note 3: Youth training courses comprised courses under the Youth Training Programme and other dedicated courses for the youth.

Note 4: These referred only to tailor-made courses for the general public but not tailor-made courses for other groups of trainees.

2.3 In each year, ERB allocated training places to training bodies through allocation exercises. The major allocation exercise of training places is conducted in November. Two supplementary allocation exercises are conducted in March and June of the following year for the remaining training places not allocated in the November exercise and the training places for new courses. The allocation of training places to training bodies for each course is based on their:

- (a) unit cost of training places;
- (b) overall quality control (i.e. the ratings of annual audit, course and financial administration, administration of placement services, number of complaints and achievement of the performance pledge);
- (c) past performance (e.g. capacity utilisation rate, graduation rate, placement rate and trainees' satisfaction level); and
- (d) relevant training experience (i.e. the number of training hours of the course for the past five years).

In 2018-19, 71 training bodies were allocated with 161,340 training places.

Planning and development of training courses

Decreasing number of young trainees admitted to ERB courses

2.4 In the paper it submitted to the Legislative Council in October 2007 informing the Council of the decision of the Chief Executive-in-Council to extend the scope of service targets of ERB, LWB stated that:

- (a) the unemployment rate among young people were relatively high as compared with that of the labour force in general;
- (b) workers with education attainment at sub-degree or below seemed less adaptable to job requirements which had become increasingly more demanding in a knowledge-based economy;
- (c) having regard to the prevailing structure of the labour force and the prevailing unemployment as well as manpower situation, the Chief Executive-in-Council decided in October 2007 that ERB should relax the eligibility criteria of ERB training courses with effect from 1 December 2007 to cover young people aged between 15 to 29 and people with education level at sub-degree or below; and

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- (d) ERB should provide training courses for young people to provide an alternative skill-based training opportunity for young people with a view to enhancing their employability.

2.5 Audit analysed the number of trainees by age in the period from 2014-15 to 2018-19 and noted that:

- (a) the percentages of young trainees aged 15 to 29 admitted to ERB training courses among all trainees were not high (ranging from 8.4% to 12.2%); and
- (b) the number and percentage of young trainees aged 15 to 29 admitted to ERB training courses decreased from 13,423 (12.2%) in 2014-15 to 10,695 (8.4%) in 2018-19. On the other hand, the number and percentage of trainees aged 30 and above increased from 96,761 (87.8%) in 2014-15 to 116,241 (91.6%) in 2018-19 (see Table 2).

Table 2

**Number and percentage of trainees analysed by age
(2014-15 to 2018-19)**

Year	Aged 15 to 29		Aged 30 and above		Total	
	No.	Percentage	No.	Percentage	No.	Percentage
2014-15	13,423	12.2%	96,761	87.8%	110,184	100%
2015-16	12,906	10.9%	105,706	89.1%	118,612	100%
2016-17	11,980	9.8%	110,730	90.2%	122,710	100%
2017-18	11,527	9.6%	108,774	90.4%	120,301	100%
2018-19	10,695	8.4%	116,241	91.6%	126,936	100%
Average	12,106	10.1%	107,642	89.9%	119,748	100%

Source: *Audit analysis of ERB records*

2.6 The targets of the youth training courses (comprised mainly courses under the Youth Training Programme — see para. 2.2(e)) are the non-engaged youth aged between 15 and 24 who have attained up to secondary school education. Audit analysed the utilisation of training places of youth training courses for the period from 2014-15 to 2018-19 and noted that:

- (a) the number of trainees admitted under youth training courses was low, ranging from 374 to 508, averaging 441;
- (b) the number of trainees admitted under youth training courses decreased by 19% from 508 in 2014-15 to 412 in 2018-19; and
- (c) in the period from 2014-15 to 2016-17, the utilisation of training places of youth training courses was low, ranging from 18.7% to 24.2%. In 2017-18, ERB reduced the annual number of planned places of youth training courses by 50% from 2,000 in 2016-17 to 1,000. Notwithstanding this, less than half of the training places were utilised in 2017-18 and 2018-19 (see Table 3).

Table 3

**Utilisation of training places of youth training courses
(2014-15 to 2018-19)**

Year	No. of planned places (a)	No. of trainees admitted (b)	Utilisation rate (c) = (b) ÷ (a) × 100%
2014-15	2,200	508	23.1%
2015-16	2,000	483	24.2%
2016-17	2,000	374	18.7%
2017-18	1,000 (Note)	428	42.8%
2018-19	1,000	412	41.2%

Source: Audit analysis of ERB records

Note: According to ERB, it adjusted the planned places from 2,000 in 2016-17 to 1,000 in 2017-18 due to: (a) the decreasing number of trainees admitted to the youth training courses; (b) the decreasing number of young labour force aged between 15 and 19 with education level of sub-degree or below (from 38,000 in 2013 to 32,000 in 2016); and (c) the availability of employment training programmes from other institutes and government departments.

Remarks: According to the Census and Statistics Department, there was a general decreasing trend in the number of unemployed persons aged 15 to 29 in recent years (from 45,300 in 2014 to 40,100 in 2019) along with a decrease in the population of this age group (from 1,347,300 in 2014 to 1,187,200 in 2019), which may have impact on the number of young trainees and their share among all trainees in training courses organised by ERB.

2.7 According to the latest available statistics for the third quarter of 2019, the unemployment rates among young people were 10.1% for those aged 15 to 24 and 3.7% for those aged 25 to 29, which remained higher than those of other age groups. Audit considers that ERB needs to critically examine the reasons for the decreasing number of young trainees admitted to ERB training courses, the decreasing percentages of young trainees among all trainees, and the low utilisation of training

places in the youth training courses. ERB also needs to step up efforts to improve the popularity of training services for young people.

Decreasing number of ethnic minorities admitted to ERB courses

2.8 ERB provides training and employment services to assist the special service targets, including new arrivals, persons with disabilities and persons recovered from work injuries, ethnic minorities, rehabilitated ex-drug abusers and ex-offenders, to integrate into the society and achieve self-reliance. Audit analysed the utilisation of planned places of courses for special targets for the years 2014-15 to 2018-19 and noted that:

- (a) the number of admitted trainees of ethnic minorities was low, decreasing from 374 in 2014-15 to 225 in 2018-19;
- (b) less than half of the planned places of courses for ethnic minorities were utilised;
- (c) the utilisation of planned places of courses for ethnic minorities decreased from 47% in 2014-15 to 28% in 2018-19 (see Table 4); and
- (d) despite the fact that less than half of the planned places were utilised and the decrease in the number of admitted trainees of ethnic minorities from 2014-15 to 2018-19, the number of planned places had not been adjusted (see Table 4).

Table 4**Utilisation of planned places of courses for ethnic minorities
(2014-15 to 2018-19)**

	2014-15	2015-16	2016-17	2017-18	2018-19
No. of planned places (a)	800	800	800	800	800
No. of admitted trainees (b)	374	334	302	312	225
Utilisation rate (c) = (b) ÷ (a) × 100 %	47 %	42 %	38 %	39 %	28 %

Source: Audit analysis of ERB records

2.9 Audit considers that ERB needs to critically examine the reasons for the decreasing number of trainees of ethnic minorities and the low utilisation of planned places of courses for ethnic minorities, and step up efforts to enhance the attractiveness of training services for ethnic minorities.

Need to review the retraining allowances for placement-tied courses

2.10 For placement-tied courses with duration of seven days or more, trainees are eligible for retraining allowances if their attendance rates reach 80% or more (Note 8). Trainees are eligible for retraining allowances for a maximum of 2 times within 1 year and 4 times within 3 years (from the commencement date of the first placement-tied course taken to the commencement date of the current course

Note 8: *Trainees of placement-tied courses are eligible for retraining allowances on condition that the sum of the following sessions comprises 80% or higher of the total number of course sessions:*

- (a) *actual number of course sessions attended (after deducting sessions of late arrivals and early departures); and*
- (b) *sessions of sick leave substantiated by certificates issued by Hong Kong registered medical practitioners (not exceeding 20% of the total number of course sessions).*

enrolled). The retraining allowances per day for different categories of courses and different trainees are shown in Table 5.

Table 5

**Retraining allowances for placement-tied courses
(31 January 2020)**

Training course	Trainee	Amount per day (\$)
Youth Training Programme courses	All eligible trainees	30.0
Placement-tied “Certificate” or “Diploma” courses	All eligible trainees	70.0
Placement-tied “Foundation Certificate” courses (i.e. pitched at Qualifications Framework (QF) Levels 1 and 2)	Original service targets (Trainees aged 30 or above and with education attainment of Secondary 3 or below)	153.8
	Other eligible trainees	70.0

Source: ERB records

2.11 Before April 2009, the maximum amount of retraining allowance that an ERB trainee would receive was \$4,000 a month. If the attendance rate reached 80 % or above, trainees would be paid retraining allowance at the rate of \$153.8 (i.e. \$4,000 divided by 26 days) per day of attendance. Noting the variation in the qualifications and age groups of its service targets after the relaxation of eligibility criteria of ERB courses since December 2007, ERB has adopted new criteria for the granting of retraining allowance to optimise the use of resources with effect from April 2009, on the basis that retraining allowance should be intended for subsidising trainees’ expenses for transport and meals during the period for attending full-time placement-tied courses. As shown in Table 5 in paragraph 2.10, original target group (people aged 30 or above and with education level of Secondary 3 or below) attending full-time courses of QF Levels 1 and 2 continues to receive \$153.8 per day, while other eligible trainees attending full-time courses (except for the Youth Training

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Programme) would receive the allowance of \$70 per day. For non-engaged youths attending the Youth Training Programme, the retraining allowance is \$30 per day.

2.12 Audit noted that the existing rates of retraining allowances had been adopted since April 2009. No review on the rates had been conducted for over 10 years. In this connection, Audit noted that the retraining allowance of the Youth Training Programme (i.e. \$30 per day) was set on a par with the training allowance of \$30 per day of the then Youth Pre-employment Training Programme of the Labour Department which subsequently became the Youth Employment and Training Programme (Note 9). The amount of training allowance of the Youth Employment and Training Programme has been revised twice since 2009, having been increased to \$50 per day for courses commencing from 2013-14 to 2016-17, and then to \$70 per day for courses commencing since 1 September 2017. The current rate of training allowance of the Youth Employment and Training Programme (i.e. \$70 per day) is more than double the retraining allowance of \$30 per day of the Youth Training Programme.

2.13 In view of the decreasing number of young trainees admitted to ERB training courses, the decreasing percentages of young trainees among all trainees, and the low utilisation of training places of youth training courses (see para. 2.6), and as a means to enhance the attractiveness of its training courses, Audit considers that ERB needs to review the existing rates of retraining allowances taking into account the current level of the trainees' expenses for transport and meals and the need of ERB to optimise the use of resources.

Note 9: *The Youth Pre-employment Training Programme was first launched in September 1999, with an aim to equip young school leavers aged 15 to 19 with comprehensive pre-employment training covering soft inter-personal skills and vocational training in a wide variety of fields. In September 2009, the Programme merged with the Youth Work Experience and Training Scheme to become the Youth Pre-employment Training Programme and Youth Work Experience and Training Scheme, which was renamed the Youth Employment and Training Programme in 2013.*

Room for improvement in new course development

2.14 New training courses are developed by ERB or training bodies as follows:

- (a) ***By ERB.*** ERB conducts research on market information to identify new courses with potential. After consultation with stakeholders of relevant industries through its Industry Consultative Networks (Note 10), and technical advisors, ERB will develop standardised training curriculums for delivery by training bodies after obtaining approval from the Course and Service Development Committee; and
- (b) ***By training bodies.*** After identifying employment opportunities and manpower demand through their networks, training bodies can propose new courses to ERB. The new courses proposed by the training bodies are vetted by ERB and approved by the Course and Service Development Committee.

2.15 In the period from 2014-15 to 2018-19, 274 new courses were approved by the Course and Service Development Committee, including 58 in 2018-19 (see Table 6).

Note 10: *ERB sets up Industry Consultative Networks of different industries to strengthen partnership and communication with its strategic partners. Industry Consultative Networks consist of members from industry representatives who have insights into and commitment in the development of the industry and its manpower, including employers, professionals, employees and training institutions. As at 31 December 2019, there were 19 Industry Consultative Networks.*

Table 6
**Number of new courses approved
(2014-15 to 2018-19)**

Type	2014-15	2015-16	2016-17	2017-18	2018-19	Total
Placement-tied courses	7	8	5	4	2	26
Skills upgrading courses	11	42	54	46	50	203
Generic skills courses	0	7	9	2	2	20
Courses for special service targets	2	2	5	5	3	17
Youth training courses	0	0	1	0	1	2
Tailor-made courses	3	2	0	1	0	6
Total	23	61	74	58	58	274

Source: Audit analysis of ERB records

2.16 Audit examined 16 (i.e. 10 courses developed by ERB and 6 courses developed by training bodies) of the 274 new courses (i.e. 185 courses developed by ERB and 89 courses developed by training bodies) approved in the period from 2014-15 to 2018-19 and noted the following issues:

- (a) ***Competitiveness of proposed courses not assessed.*** In the proposals for new training courses submitted to the Course and Service Development Committee, the market needs for the proposed new courses and the comments of the technical advisors and members of the Industry Consultative Networks were stated. According to ERB, market research for assessing the availability of similar courses in the market and the competitiveness of the proposed courses in comparison with those existing in the market had been conducted for internal reference. However, Audit

noted that such information was not included in the course proposals and the papers submitted to the Course and Service Development Committee; and

- (b) ***Inconsistency in proposals for courses developed by ERB and training bodies.*** Audit noted that the information required in the proposal for new courses developed by ERB was not consistent with that required for new courses developed by training bodies. According to the guidelines on new course development, the training bodies are required to state in the proposals the number of classes proposed to be conducted in the year. However, such information was not required in the guidelines for the proposals of new courses developed by ERB.

2.17 Audit considers that ERB needs to provide in the course proposals and the papers submitted to the Course and Service Development Committee information regarding the availability of similar courses in the market and the competitiveness of proposed courses in comparison with those existing in the market. ERB also needs to rationalise the information requirements for the proposals of courses developed by ERB and those developed by training bodies and revise the guidelines on new course development where necessary.

Some training courses not suspended although no classes were held for many years

2.18 According to the ERB Guidelines on course review, ERB conducts review on each course annually to identify courses for suspension. Training courses for general trainees will be considered for suspension if no class has been held continuously for three years.

2.19 In each annual review, ERB will identify those courses that meet the above suspension criteria (see para. 2.18) based on the records of previous three years. Courses will not be suspended if it is:

- (a) a course with potential market needs (for example, the course is the only or one of the few courses offered in the industry or attending such a course is an entry requirement of a particular occupation);

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- (b) a course related to a series of courses; or
- (c) a course for which there is an increasing market demand.

2.20 Before deciding whether a course will be suspended, ERB will consult the relevant stakeholders (such as Industry Consultative Networks, technical advisors, industry representatives and professional bodies) and seek their comments. After obtaining comments from various stakeholders, a proposed list of courses for suspension and a list of courses which would continue to be offered will be prepared for approval by the Course Management Working Group (Note 11).

2.21 Audit examination of the 606 training courses for general trainees on the ERB course list for 2018-19 revealed that no class had been held for 36 (6%) courses continuously for three years from 2014-15 to 2016-17. Audit further noted that in the 2017 annual review exercise, the Course Management Working Group approved not to suspend 34 (94%) of the 36 courses in 2018-19. However, for 2 (6%) of the 36 courses, there was no evidence showing that the related stakeholders supported and the Course Management Working Group approved not to suspend them. Audit considers that ERB needs to take measures to ensure that courses are suspended according to the ERB Guidelines unless their continuation is supported and approved.

2.22 Audit also noted that the Course and Service Development Committee and Course Vetting Committee were not provided with information on the course suspension. To enhance accountability, Audit considers that ERB needs to provide information on course suspension to the Committees.

Note 11: *Members of the Course Management Working Group include Deputy ED (Training Services), Senior Managers and Deputy Managers of the Training Services Division. Executives may also be nominated to attend meetings on a need basis.*

Audit recommendations

2.23 **Audit has *recommended* that ED, ERB should:**

- (a) **critically examine the reasons for the decreasing number of young trainees admitted to ERB training courses, the decreasing percentages of young trainees among all trainees, and the low utilisation of training places in the youth training courses;**
- (b) **step up efforts to improve the popularity of training services for young people;**
- (c) **critically examine the reasons for the decreasing number of trainees of ethnic minorities and the low utilisation of planned places of courses for ethnic minorities;**
- (d) **step up efforts to enhance the attractiveness of training services for ethnic minorities;**
- (e) **review the existing rates of retraining allowances taking into account the current level of the trainees' expenses for transport and meals and the need of ERB to optimise the use of resources;**
- (f) **provide in the course proposals and the papers submitted to the Course and Service Development Committee information regarding the availability of similar courses in the market and the competitiveness of proposed courses in comparison with those existing in the market;**
- (g) **rationalise the information requirements for the proposals of courses developed by ERB and those developed by training bodies and revise the guidelines on new course development where necessary;**
- (h) **take measures to ensure that courses are suspended according to the ERB Guidelines unless their continuation is supported and approved; and**
- (i) **provide information on course suspension to the Course and Service Development Committee and the Course Vetting Committee.**

Response from ERB and the Government

- 2.24 ED, ERB agrees with the audit recommendations. He has said that:
- (a) ERB is all along taking note of the decreasing number of youth admitted to ERB training courses and the low utilisation of training places in youth training courses. The decreasing number of young trainees was attributed to the decreasing number of young people in the population and the diverse range of training related opportunities available in the market so that ERB courses were not their priority choice. Yet ERB has reserved the same capacity of training places dedicated for youth in its annual plans for the past years in order to maintain its commitment to providing adequate training opportunities to youth;
 - (b) ERB reviewed the dedicated youth courses in 2019, and has set up a “Focus Group on Training for Youth” with a view to reviewing and thus improving the attractiveness of its existing courses while developing and exploring new measures to tackle the special needs of young people. Recommendations of the Focus Group were endorsed by the Course and Service Development Committee in January 2020 and the proposed measures will be rolled out in 2020-21 onwards;
 - (c) despite the low enrolment rate of ethnic minorities, ERB has still allocated a considerable number of training places dedicated for ethnic minorities in past years. The underlying reason is that ERB aims to maintain its commitment to offering adequate training opportunities for ethnic minorities;
 - (d) in order to critically examine the reasons for low attendance of ethnic minorities and to enhance the attractiveness of training courses for ethnic minorities as recommended by Audit, ERB will step up its liaison with its stakeholders, including its concerned training bodies, in exploring new initiatives to attract ethnic minorities to enrol in ERB courses, for instance, by introducing more flexible training hours to cater for ethnic minorities’ religious and cultural needs, and by providing after-school care service for those ethnic minorities who have to take care of their children;
 - (e) in line with the direction of the Policy Address 2018-19, ERB has also relaxed the admission criteria for ethnic minorities by allowing greater

flexibility for ethnic minorities with education attainment higher than sub-degree level to enrol in ERB courses starting from the financial year 2019-20. ERB will continue to closely monitor the effectiveness of the above measures and will step up efforts in assisting ethnic minorities on training in consultation with its existing consultative forum, namely “Focus Group on Training for Ethnic Minorities” comprising representatives from various ethnic minority groups and associations;

- (f) according to Schedule 4 of ERO, the maximum amount of retraining allowance is \$4,000 per trainee per month. As part of the fourth package of measures to support enterprises and employment announced by the Financial Secretary on 4 December 2019, ERB has undertaken to, inter alia, increase the maximum amount of retraining allowance from \$4,000 to \$5,800 for all eligible ERB’s retraining courses, including those under the “Special Scheme”, through legislative amendment. The amendment of Schedule 4 of ERO was published in the Gazette on 27 March 2020 with date of commencement being 25 May 2020. The level of retraining allowances will be increased accordingly;
- (g) ERB will arrange to provide in the course proposals and papers submitted to the Course and Service Development Committee information regarding the availability of similar courses in the market and competitiveness of proposed courses in comparison with those existing in the market;
- (h) ERB will arrange to state “the number of classes proposed to be conducted in the year” in the course proposals developed by ERB, and revise the course development guidelines correspondingly;
- (i) ERB will remind concerned staff to strictly observe the relevant guidelines in handling course suspension matters; and
- (j) ERB will duly submit the course suspension lists to relevant Committees on a regular basis.

2.25 The Secretary for Labour and Welfare has said that LWB, in conjunction with ERB, has been taking forward a legislative amendment exercise to increase the maximum amount of monthly allowance per trainee by 45% from \$4,000 to \$5,800. After the passage of the legislative amendment, ERB will consider the corresponding

adjustment of the daily rates of various retraining allowances, including that for young trainees.

Managing waiting times for training courses

Long waiting times of courses for some applicants

2.26 In the 2011 Audit Review, Audit found that in some cases, a considerable number of applicants had to wait for a course for a few months. ERB accepted Audit's recommendation to monitor the training centres' applicant waiting lists and take proactive actions to shorten the waiting times.

2.27 Training courses are held at the training centres of training bodies in various districts. Each training centre maintains its own waiting lists of applicants for the training courses. As at 31 December 2019, there were 52,659 applicants on the waiting lists (comprising 10,661 applicants for placement-tied courses and 41,998 applicants for non-placement-tied courses). The results of Audit examination of the waiting times of the 52,659 applicants are summarised below (details in Table 7):

- (a) ***Placement-tied courses.*** Of the 10,661 applicants for placement-tied courses, 2,172 (20%) had been on the waiting lists for more than four months (i.e. the waiting time specified in the performance pledge), including 441 (4%) for one year or more. The longest waiting time was 5.9 years (71 months); and
- (b) ***Non-placement-tied courses.*** Of the remaining 41,998 applicants for non-placement-tied courses, 14,526 (35%) had been on the waiting lists for more than five months (i.e. the waiting time specified in the performance pledge), including 4,802 (11%) for one year or more. The longest waiting time was 7.5 years (90 months).

Table 7

**Waiting times of applicants for training courses
(31 December 2019)**

Waiting time (month)	No. of applicants		
	Placement-tied courses	Non-placement-tied courses	Total
≤ 1	4,082	8,758	12,840
> 1 to 2	1,977	5,543	7,520
> 2 to 3	1,613	5,593	7,206
> 3 to 4	817	4,425	5,242
> 4 to 5	417	3,153	3,570
> 5 to 6	366	2,611	2,977
> 6 to 12	948	7,113	8,061
> 12 to 24	344	3,816	4,160
> 24 to 36	2,172 (20%) } 68	14,526 (35%) } 754	822
> 36 to 48	13	162	175
> 48 to 60	9	53	62
> 60	7	17	24
Total	10,661	41,998	52,659
Overall situation	Waiting times ranged from 1 day to 5.9 years (averaging 3.1 months)	Waiting times ranged from 1 day to 7.5 years (averaging 5.3 months)	Waiting times ranged from 1 day to 7.5 years (averaging 4.9 months)

Source: Audit analysis of ERB records

2.28 Audit considers that ERB needs to ascertain the reasons for the long waiting times before the applicants can commence training and endeavour to shorten the waiting times, for example, by encouraging applicants on the waiting lists of a training centre to enrol the same course offered by another training centre nearby.

Audit recommendation

2.29 Audit has *recommended* that ED, ERB should ascertain the reasons for the long waiting times before the applicants can commence training and endeavour to shorten the waiting times, for example, by encouraging applicants on the waiting lists of a training centre to enrol the same course offered by another training centre nearby.

Response from ERB

2.30 ED, ERB agrees with the audit recommendation in principle. He has said that:

- (a) according to the existing practice, ERB would remind training bodies once every three months to check with course applicants on their intention to stay on a particular course waiting list or to consider switching to other courses. Training bodies are asked to record applicants' preference for waiting in ERB's computer system. Therefore, the long waiting times are basically reflecting the applicants' own preference to stay on their waiting for a particular course;
- (b) as ERB allows applicants to submit applications for more than one course and at different centres, applicants on the waiting list of one course may in fact have already been admitted to a different course in such a way that the waiting time recorded for an applicant is not necessarily indicative of his/her failure to attend ERB course timely; and
- (c) ERB will continuously review the mechanism and/or work procedures to ensure applicants can receive training in a timely manner. In the light of Audit's recommendation, ERB agrees to void those applications that are put on the waiting list for exceedingly long period by introducing a validity period of two years for all applications starting from April 2020. In other

words, if the applicant is on the waiting list for a particular course for over two years, the application will lapse and he/she will need to submit a fresh application in case he/she still wants to enrol in the course. This will serve as an incentive for the applicants to enrol in other similar courses or consider switching to other training bodies/centres. ERB will monitor the impact of such measure and will review the effectiveness of such measure in shortening the waiting times for ERB courses.

Performance measurement

Key performance indicators

2.31 ERB has developed various key performance indicators (KPIs) to monitor the effectiveness of training courses and ensure the quality of training courses provided by the training bodies. According to the contracts signed between ERB and the training bodies:

- (a) the training bodies should endeavour to achieve the targets in respect of the KPIs on training courses and services set by ERB;
- (b) if the training bodies fail to achieve the performance targets, training bodies should provide explanations in writing to ERB and take improvement measures to meet the performance targets, and ERB may suspend or deduct the amount of funds disbursed or to be disbursed to the training bodies if reasons for suspension or deduction are provided; and
- (c) ERB takes into account past KPIs performance of training bodies in the allocation of training places exercise.

2.32 KPIs for each placement-tied course and each non-placement-tied course are:

- (a) capacity utilisation rate (i.e. number of admitted trainees as a percentage to number of training places where classes are held);
- (b) attendance rate (i.e. percentage of admitted trainees with attendance rate of 80% or above); and

- (c) graduation rate (i.e. number of graduates (trainees with attendance rate of 80% or above and passing the course assessment) as a percentage to number of admitted trainees with attendance rate of 80% or above).

There is an additional KPI for placement-tied course, namely placement rate (i.e. number of trainees who have been placed into employment or pursued further studies in the placement follow-up period as a percentage to number of admitted trainees with attendance rate of 80% or above).

2.33 Audit analysed the performance of KPIs for the period from 2014-15 to 2018-19 and noted that some training courses did not meet the performance targets. The audit findings are detailed in paragraphs 2.34 to 2.38.

Target capacity utilisation rate not met

2.34 The target capacity utilisation rate for training courses was 85%. Of the 2,525 training courses held from 2014-15 to 2018-19, 336 (13.3%) did not meet the target (see Table 8). Audit examined the 528 training courses held in 2018-19 and noted that their capacity utilisation rates ranged from 41.7% to 110% (Note 12), averaging 92%.

Note 12: *According to ERB, training bodies might opt to enrol more trainees to classes than the original class size, as last minute dropouts were anticipated. In cases where actual enrolment was more than the approved class size, capacity utilisation rate would become greater than 100%. No prior approval from ERB was required. However, the funding for the class was capped at the approved class size.*

Table 8

Capacity utilisation rates of training courses
(2014-15 to 2018-19)

Capacity utilisation rate	No. of courses with classes held					
	2014-15	2015-16	2016-17	2017-18	2018-19	Total
< 30%	0	1	0	0	0	1
30% to < 40%	2	0	2	0	0	4
40% to < 50%	5	1	0	3	1	10
50% to < 60%	2	2	4	7	5	20
60% to < 70%	19	5	9	7	5	45
70% to < 80%	25	21	17	17	22	102
80% to < 85%	35	32	23	28	36	154
85% to < 100%	319	313	328	345	359	1,664
100%	81	105	105	103	93	487
> 100%	6	9	11	5	7	38
Total	494	489	499	515	528	2,525 (Note)

Source: Audit analysis of ERB records

Note: The total number of courses with classes held was the sum of such courses in each individual year. For example, a course with classes held in three individual years was counted as three courses in the total. The 2,525 courses comprised 735 different courses with classes held in the period from 2014-15 to 2018-19.

Remarks: The target capacity utilisation rate was 85%.

Target attendance rate not met

2.35 The target attendance rate for training courses was 80%. Of the 2,516 training courses with classes completed in the period from 2014-15 to 2018-19, 230 (9.1%) did not meet the target (see Table 9). Audit examined the 518 training courses with classes completed in 2018-19 and noted that their attendance rates ranged from 31% to 100%, averaging 94%.

Table 9

**Attendance rates of training courses
(2014-15 to 2018-19)**

Attendance rate	No. of courses with classes completed					
	2014-15	2015-16	2016-17	2017-18	2018-19	Total
< 30%	1	2	0	0	0	3
30% to < 40%	1	0	0	3	1	5
40% to < 50%	1	0	1	0	0	2
50% to < 60%	3	4	7	1	4	19
60% to < 70%	14	14	9	5	8	50
70% to < 80%	27	27	38	36	23	151
80% to < 90%	106	121	98	120	119	564
90% to < 100%	241	231	244	248	262	1,226
100%	102	86	105	102	101	496
Total	496	485	502	515	518	2,516 (Note)

Source: Audit analysis of ERB records

Note: The total number of courses with classes completed was the sum of such courses in each individual year. For example, a course with classes completed in three individual years was counted as three courses in the total. The 2,516 courses comprised 745 different courses with classes completed in the period from 2014-15 to 2018-19.

Remarks: The target attendance rate was 80%.

Target graduation rate not met

2.36 The target graduation rate for training courses was 80%. Graduation rate has been set as a KPI since 2015-16. Of the 2,020 training courses with classes completed in the period from 2015-16 to 2018-19, 159 (7.9%) did not meet the target

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(see Table 10). Audit examined the 518 training courses with classes completed in 2018-19 and noted that their graduation rates ranged from 33% to 100%, averaging 95%.

Table 10

**Graduation rates of training courses
(2015-16 to 2018-19)**

Graduation rate	No. of courses with classes completed				
	2015-16	2016-17	2017-18	2018-19	Total
< 30%	1	1	3	0	5
30% to < 40%	3	2	3	3	11
40% to < 50%	0	1	4	1	6
50% to < 60%	13	5	8	3	29
60% to < 70%	5	9	9	11	34
70% to < 80%	21	16	18	19	74
80% to < 90%	47	48	39	49	183
90% to < 100%	185	181	219	210	795
100%	210	239	212	222	883
Total	485	502	515	518	2,020 (Note)

Source: Audit analysis of ERB records

Note: The total number of courses with classes completed was the sum of such courses in each individual year. For example, a course with classes completed in three individual years was counted as three courses in the total. The 2,020 courses comprised 682 different courses with classes completed in the period from 2015-16 to 2018-19.

Remarks: The target graduation rate was 80%.

Target placement rates not met

2.37 ERB has set different target placement rates for different types of placement-tied courses. According to the ERB Guidelines on placement services, ERB will analyse the target placement rates by class level, course level and by training bodies to evaluate the effectiveness of the training courses and the results of the placement services. Audit analysed the placement rates in the period from 2014-15 to 2018-19 and noted the following issues:

- (a) ***Courses for general trainees, persons with disabilities and persons recovered from work injuries, and youth training courses.*** For placement-tied courses for general trainees, persons with disabilities and persons recovered from work injuries, and youth training courses, the target placement rate is set at 70% (Note 13). Of the 744 such placement-tied courses with classes completed during the period, 52 (7%) courses did not meet the target (see Table 11). Audit further analysed the placement rates of the 11,784 classes completed during the period for the 744 placement-tied courses. Audit noted that 553 (4.7%) of the 11,784 classes did not meet the target rate of 70%; and

Note 13: *According to ERB, there was a course held for persons with disabilities for which the target placement rate was set at 60%. The course had one class completed in 2014-15 and another in 2016-17, with placement rate of 83% and 88% respectively. There was a tailor-made course held for persons with disabilities included in the analysis of placement rates for placement-tied courses with target placement rate set at 70%. The course had one class completed in 2014-15 with placement rate of 73%.*

Table 11
**Placement rates of placement-tied courses with target rate of 70%
(2014-15 to 2018-19)**

Placement rate	No. of courses with classes completed					
	2014-15	2015-16	2016-17	2017-18	2018-19	Total
< 30 %	0	1	1	0	0	2
30 % to < 40 %	1	1	1	1	0	4
40 % to < 50 %	0	0	1	2	1	4
50 % to < 60 %	1	1	3	1	3	9
60 % to < 70 %	12	4	6	9	2	33
70 % to < 80 %	63	50	56	39	39	247
80 % to < 90 %	58	63	65	72	80	338
90 % to < 100 %	12	9	13	26	14	74
100 %	6	14	7	3	3	33
Total	153	143	153	153	142	744 (Note)

Source: Audit analysis of ERB records

Note: The total number of courses with classes completed was the sum of such courses in each individual year. For example, a course with classes completed in three individual years was counted as three courses in the total. The 744 courses comprised 194 different courses with classes completed in the period from 2014-15 to 2018-19.

Remarks: Placement-tied courses with target placement rate set at 70% were the ones for general trainees, persons with disabilities and persons recovered from work injuries, and youth training courses.

- (b) *Courses for ethnic minorities, rehabilitated ex-offenders and new arrivals.* For placement-tied courses for ethnic minorities, rehabilitated ex-offenders and new arrivals, the target placement rate is set at 50% (Note 14). Of the 118 such placement-tied courses with classes completed during the period, 31 (26.3%) courses did not meet the target (see Table 12). Audit further analysed the placement rates of the 263 classes completed during the period for the 118 placement-tied courses. Audit noted that 50 (19%) of the 263 classes did not meet the target rate of 50%.

Note 14: *According to ERB, there was a youth training course for persons with disabilities for which the target placement rate was set at 50%. The course had one to two classes completed in each of the years from 2014-15 to 2018-19. The course was included in the analysis of placement rates for placement-tied courses with target placement rate set at 50%.*

Table 12
**Placement rates of placement-tied courses with target rate of 50%
(2014-15 to 2018-19)**

Placement rate	No. of courses with classes completed					
	2014-15	2015-16	2016-17	2017-18	2018-19	Total
< 30 %	0	2	1	3	2	8
30 % to < 40 %	2	2	2	2	1	9
40 % to < 50 %	4	2	3	2	3	14
50 % to < 60 %	10	8	7	7	6	38
60 % to < 70 %	1	7	9	4	2	23
70 % to < 80 %	5	3	3	4	3	18
80 % to < 90 %	0	1	0	2	3	6
90 % to < 100 %	0	0	0	1	0	1
100 %	0	0	1	0	0	1
Total	22	25	26	25	20	118 (Note)

Source: Audit analysis of ERB records

Note: The total number of courses with classes completed was the sum of such courses in each individual year. For example, a course with classes completed in three individual years was counted as three courses in the total. The 118 courses comprised 30 different courses with classes completed in the period from 2014-15 to 2018-19.

Remarks: Placement-tied courses with target placement rate set at 50% were the ones for ethnic minorities, rehabilitated ex-offenders and new arrivals.

2.38 According to ERB, the main reasons for placement-tied courses not meeting the target placement rates were:

- (a) job nature or employment terms did not meet trainees' expectations (e.g. working time, location and job stability);

- (b) trainees refused to work; and
- (c) trainees were occupied by family needs.

Reference indicators

2.39 Apart from KPIs, ERB also sets three reference indicators for training courses as follows:

- (a) ***Relevancy rate to training.*** This is the number of trainees engaged in employment relevant to the training courses that the trainees have completed as a percentage to the number of trainees who have been placed into employment. The relevancy rate to training is applicable for placement-tied courses for specific skills required by a particular post or courses for a specific type of work or post, but not for placement-tied courses for generic skills;
- (b) ***Continuous employment rate.*** This is the number of trainees engaged in employment for not less than a total of 72 hours within 4 consecutive weeks during the placement follow-up period as a percentage of the total number of trainees placed into employment. The continuous employment rate is applicable only for placement-tied courses aiming at full-time employment, but not for courses for special service targets and Youth Training Programme, and those aiming at self-employed, casual, temporary and part-time jobs; and
- (c) ***Retention rate.*** This is the percentage of respondents who are in employment at the time of retention survey which is conducted six months after the placement follow-up period.

2.40 Audit analysed the performance of reference indicators for the period from 2014-15 to 2018-19 and noted that similar to the situation of KPIs, some training courses did not meet the performance targets. Also, the overall retention rate decreased. The audit findings are detailed in paragraphs 2.41 to 2.44.

Target relevancy rate to training not met

2.41 The relevancy rate to training is one of the reference indicators specified in the Annual Plan submitted by ERB to LWB for monitoring the effectiveness of training courses and services. The overall performance in respect of the relevancy rate to training is reported quarterly to the Quality Assurance and Review Committee. According to the ERB Guidelines on placement services, ERB will analyse the target relevancy rates to training by class level, course level and by training bodies to evaluate the effectiveness of the training courses and the results of the placement services. The target relevancy rate to training was 60%. Audit analysed the relevancy rates to training for applicable placement-tied courses (see para. 2.39(a)) with classes completed in the period from 2014-15 to 2018-19 and noted that of the 825 applicable placement-tied courses with employed trainees, 602 (73%) did not meet the target rate of 60% (see Table 13). Audit further analysed the relevancy rates to training of the 11,870 classes completed during the period for the 825 placement-tied courses. Audit noted that 7,358 (62%) of the 11,870 classes did not meet the target rate of 60%.

Table 13

**Relevancy rates to training for applicable placement-tied courses
(2014-15 to 2018-19)**

Relevancy rate to training	No. of courses with classes completed					
	2014-15	2015-16	2016-17	2017-18	2018-19	Total
0%	9	17	14	15	15	70
>0% to <10%	4	0	7	2	6	19
10% to <20%	19	12	11	17	13	72
20% to <30%	28	17	26	20	25	116
30% to <40%	13	30	21	25	14	103
40% to <50%	18	20	23	27	15	103
50% to <60%	26	24	20	24	25	119
60% to <70%	21	19	21	18	22	101
70% to <80%	19	13	9	10	11	62
80% to <90%	8	7	5	5	5	30
90% to <100%	1	1	3	1	3	9
100%	4	1	9	3	4	21
Total	170	161	169	167	158	825 (Note)

Source: Audit analysis of ERB records

Note: The total number of courses with classes completed was the sum of such courses in each individual year. For example, a course with classes completed in three individual years was counted as three courses in the total. The 825 courses comprised 215 different courses with classes completed in the period from 2014-15 to 2018-19.

Remarks: The target relevancy rate to training was 60%.

Target continuous employment rate not met

2.42 Continuous employment rate has been set as an internal reference indicator since 2015-16 for monitoring the employment pattern and employment market changes with a view to providing reference information for ERB in course planning and development. The continuous employment rate is one of the reference indicators specified in the Annual Plan submitted by ERB to LWB. The overall performance in respect of the continuous employment rate is reported quarterly to the Quality Assurance and Review Committee. According to the ERB Guidelines on placement services, ERB will analyse the target continuous employment rates by class level, course level and by training bodies to evaluate the effectiveness of the training courses and the results of the placement services. The target for the continuous employment rate was set at 60%. Audit analysed the continuous employment rates for placement-tied courses aiming at full-time employment (see para. 2.39(b)) with classes completed in the period from 2015-16 to 2018-19 and noted that 60 (32%) of the 190 courses did not meet the target rate of 60% (see Table 14). Audit further analysed the continuous employment rates of the 2,908 classes completed during the period for the 190 courses. Audit noted that 692 (24%) of the 2,908 classes did not meet the target rate of 60%.

Table 14

**Continuous employment rates for placement-tied courses
aiming at full-time employment
(2015-16 to 2018-19)**

Continuous employment rate	No. of courses with classes completed				
	2015-16	2016-17	2017-18	2018-19	Total
< 30 %	0	0	2	1	3
30 % to < 40 %	2	2	2	2	8
40 % to < 50 %	6	9	7	2	24
50 % to < 60 %	7	6	7	5	25
60 % to < 70 %	11	10	7	7	35
70 % to < 80 %	13	10	8	12	43
80 % to < 90 %	12	10	8	11	41
90 % to < 100 %	2	4	0	1	7
100 %	1	1	2	0	4
Total	54	52	43	41	190 (Note)

Source: Audit analysis of ERB records

Note: The total number of courses with classes completed was the sum of such courses in each individual year. For example, a course with classes completed in three individual years was counted as three courses in the total. The 190 courses comprised 69 different courses with classes completed in the period from 2015-16 to 2018-19.

Remarks: The target continuous employment rate was 60%.

Decrease in overall retention rate

2.43 ERB conducts retention surveys for placement-tied courses on a regular basis to assess the effectiveness of the training courses. The overall performance and performance by course types in respect of the retention rate are reported quarterly to the Quality Assurance and Review Committee. Audit analysed the results of the retention surveys conducted in the period from 2014-15 to 2018-19 and noted that the overall retention rate for placement-tied courses decreased from 64% in 2014-15 to 61% in 2018-19. In particular, the retention rates for courses relating to environmental service were consistently low in the period from 2014-15 to 2018-19, ranging from 47% to 55%.

2.44 Audit considers that ERB needs to continue to monitor the performance of training courses on various KPIs and reference indicators, and endeavour to improve the various aspects of the training services with a view to improving the quality of the services.

Audit recommendations

2.45 **Audit has recommended that ED, ERB should:**

- (a) **continue to monitor the performance of training courses on various KPIs and reference indicators; and**
- (b) **endeavour to improve the various aspects of the training services with a view to improving the quality of the services.**

Response from ERB

2.46 ED, ERB agrees with the audit recommendations in principle. He has said that:

- (a) ERB will continue to monitor the performance of training courses, and request training bodies which are unable to meet the performance targets of certain courses to provide explanation. If the situation prevails, ERB will invite training bodies for in-depth discussion on the issue and take effective

measures for improvement, e.g. by discussing with respective Course Steering Groups so as to enhance course design in terms of coverage and depth of training content, duration, attractiveness, etc.;

- (b) ERB will review training courses from time to time with reference to the performance on various KPIs and reference indicators with a view to continuously improving the quality of its training services;
- (c) the relevancy rate to training, continuous employment rate and retention rate are reference indicators for providing information for ERB's internal reference in course planning and development, but not for measuring the performance of training bodies or ERB training courses. ERB will continue to monitor the trends of the reference indicators; and
- (d) ERB will consult the Quality Assurance and Review Committee on reviewing various KPIs and reference indicators, and may consider adjusting their target levels and applicability when appropriate.

PART 3: QUALITY ASSURANCE

3.1 This PART examines the quality assurance work of ERB, focusing on the following areas:

- (a) quality assurance measures (paras. 3.2 to 3.15); and
- (b) course accreditation (paras. 3.16 to 3.21).

Quality assurance measures

3.2 According to ERB, it has implemented a “risk-and-performance-based” quality assurance system through continuous assessment of training bodies’ performance and resource allocation, flexible adjustment of the enforcement priorities and strength of the “regular monitoring measures”, as well as the use of a “case management” approach to follow up on remedial work to be undertaken by training bodies with less-than-satisfactory performance. The regular quality assurance measures adopted by ERB are described as below:

- (a) ***Annual audit.*** ERB conducts on-site audits annually for all training bodies which commence training courses during the audit period. It aims to assess the performance of training bodies in course administration and course quality, and facilitate them to strengthen their internal quality assurance systems;
- (b) ***Class surprise inspection.*** Class surprise inspection is conducted at least once a year on every training centre which commences training courses during the year to ensure the compliance with stipulated regulations governing course administration. ERB conducts class surprise inspections by reviewing the timetable, roll call procedures and records, trainees’ identities, trainers’ information, training facilities, etc.;
- (c) ***Course-end assessment surprise inspection.*** Course-end assessment surprise inspection is conducted on every training body which hosts any course-end assessments to ensure the compliance with assessment guidelines. Focus of the course-end assessment surprise inspection includes observation of the procedures of obtaining the assessment papers and

conducting the assessment by assessor or proctor, and the procedure of collecting the completed assessment papers;

- (d) ***Checking on download records of course-end assessment paper.*** Every working day, ERB checks whether training bodies abide by the rule of downloading the assessment papers from the ERB system before the assessment is held;
- (e) ***Class visits.*** Class visits are conducted to training centres to boost trainers' quality in teaching. Class visits cover 1% of classes conducted by the training bodies each year. For training bodies with less than 100 classes commenced each year, one visit is conducted; and
- (f) ***Assessment observations.*** Assessment observations are conducted to observe practical assessments administered by various training bodies so as to enhance quality and align standard of assessment. At least one observation will be conducted for the training bodies which commence placement-tied training courses with practical assessments and courses with practical assessments under the sub-area where Programme Area Accreditation status is obtained.

Training bodies' performance in various quality assurance measures is one of the factors considered by ERB in the annual exercise of allocation of training places.

Annual audits not performed according to ERB Guidelines

3.3 The ratings of annual audits account for 15% of the overall score in the annual exercise of allocation of training places (see para. 2.3(b)). Under the annual audit, the ratings of training bodies are categorised into four groups (i.e. Group 1 to 4). The better the performance of a training body, the smaller Group number will it be rated. Training bodies rated as Group 1 are the ones with excellent performance. According to the ERB quality assurance guidelines, if a training body obtained Group 1 rating in the on-site annual audits performed by ERB in the last two consecutive years, the training body will be allowed to undertake self-evaluation for

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one year (Note 15). No on-site annual audit will be carried out by ERB for the year if self-evaluation is undertaken by the training body.

3.4 Audit noted that, of the 367 annual audits conducted in the period from 2014-15 to 2018-19, 127 (35%) were self-evaluations performed by 65 training bodies themselves. However, of these 127 self-evaluations performed by training bodies, 60 (47%) self-evaluations were performed by 41 training bodies which did not obtain Group 1 rating in the on-site annual audits performed by ERB in the last two consecutive years. An example of these 60 self-evaluations is shown at Table 15.

Table 15

**An example of self-evaluation where annual audit
should have been performed by ERB instead
(2014-15 to 2018-19)**

Year	Mode of evaluation	Result of annual audit performed by ERB	Eligibility for self-evaluation
2014-15	Annual audit by ERB	Group 1	—
2015-16	Annual audit by ERB	Group 1	—
2016-17	Self-evaluation	N/A	Yes
2017-18	Annual audit by ERB	Group 1	—
2018-19	Self-evaluation	N/A	No (Note)

Source: Audit analysis of ERB records

Note: In 2018-19, the training body did not have Group 1 rating in the on-site annual audits performed by ERB in the last two consecutive years (i.e. 2016-17 and 2017-18). Therefore, according to the ERB Guidelines, the training body should be subject to on-site annual audit performed by ERB.

Note 15: *The ERB quality assurance guidelines were written in Chinese only. The original text in the guidelines was “於最近 2 年連續在本局進行的周年審計中取得第一組別評級的培訓機構，可獲 1 年「自行評審」資格”.*

3.5 In response to Audit enquiry, ERB informed Audit in March 2020 that the ERB guidelines were meant to allow training bodies to perform self-evaluation if they obtained Group 1 rating in the most recent two annual audits performed by ERB. If training bodies have undertaken self-evaluation in a year, ERB will conduct on-site annual audit to training bodies in the following year.

3.6 At the meeting of the Quality Assurance and Review Committee held in November 2019, it was endorsed that the eligibility criteria for conducting self-evaluation by training bodies would be relaxed such that training bodies with one year of Group 1 rating in the on-site annual audit would be arranged to conduct self-evaluation with effect from 1 April 2020. Audit considers that as more training bodies will be arranged to conduct self-evaluation instead of on-site annual audit by ERB, ERB needs to ensure that on-site annual audits and self-evaluations are conducted according to the ERB Guidelines. ERB also needs to keep in view the impact on the performance of training bodies after the relaxation of eligibility criteria for conducting self-evaluation by training bodies.

Class surprise inspections not conducted for some training centres

3.7 According to the ERB quality assurance guidelines, training centres where ERB courses have been held will be selected for class surprise inspections at least once a year (Note 16). Additional inspections would be arranged taking into account the performance of training bodies, trainees' views and complaints.

3.8 Audit reviewed the records of class surprise inspections for the period from 2016-17 to 2018-19 and noted that:

- (a) for 2016-17, of the 250 training centres that should have been inspected, 2 (0.8%) were not inspected;
- (b) for 2017-18, of the 235 training centres that should have been inspected, 2 (0.9%) were not inspected; and

Note 16: *According to the ERB quality assurance guidelines, for the training centres managed by the Correctional Services Department, one class surprise inspection would be conducted to one of the training centres in a year.*

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- (c) for 2018-19, of the 231 training centres that should have been inspected, 2 (0.9%) were not inspected (see Table 16).

Table 16

**Number of class surprise inspections per training centre
(2016-17 to 2018-19)**

No. of inspections per centre	No. of training centres		
	2016-17	2017-18	2018-19
0	2 (0.8%)	2 (0.9%)	2 (0.9%)
1	169 (67.6%)	152 (64.7%)	160 (69.3%)
2 - 5	78 (31.2%)	80 (34.0%)	67 (29.0%)
6 - 10	1 (0.4%)	1 (0.4%)	1 (0.4%)
11 or above	0 (0.0%)	0 (0.0%)	1 (0.4%)
Total	250 (100.0%)	235 (100.0%)	231 (100.0%)

Source: Audit analysis of ERB records

3.9 Audit considers that ERB needs to take measures to ensure that class surprise inspections are conducted for training centres according to the ERB Guidelines.

Need to improve course-end assessments

3.10 For some training courses, assessments are held to assess whether trainees achieve the intended learning outcomes. Course-end assessments are crucial to quality assurance and obtaining accreditation of courses under QF. For some professional certification courses, graduates passing the relevant assessments are eligible to professional registration or certification.

3.11 “Assessment observations” are conducted by ERB to observe practical assessments administered by various training bodies so as to enhance quality and align standard of assessment (see para. 3.2(f)). From 2015-16 to 2018-19, ERB conducted 207 assessment observations on course-end assessments. Audit reviewed the results of 50 assessment observations in the period from 2015-16 to 2018-19 and noted that there were non-compliances with assessment guidelines in 10 assessment observations. Audit found room for improvement in the follow-up action taken by ERB on their results of observations on course-end assessments. Examples are as follows:

- (a) ***Foundation Certificate in Dim Sum Cook Training Course.*** According to the guidelines on course-end assessments, candidates should complete the assessment within the time allowed by the assessor. Candidates’ performance beyond the time allowed will not receive marks. Training bodies should not arrange the trainer of the course to be the assessor during course-end assessments as far as practicable to ensure the fairness and impartiality of the assessment. For the Foundation Certificate in Dim Sum Cook Training Course (i.e. pitched at QF Level 1) held in 2017-18, trainees were required to finish making the custard donuts within the limit of 45 minutes. ERB found that the assessor was the trainer of the course and trainees were allowed to prepare the custard stuffing prior to the commencement of the assessment, violating the assessment procedures. All 17 trainees attending the assessment passed the assessment and were issued graduation certificates. ERB subsequently found that the assessor had been the trainer and let trainees prepare the custard stuffing prior to the commencement of the assessments since June 2015 involving 5 classes of a total of 84 trainees. No re-assessments were conducted for the trainees involved. In response to Audit enquiry, ERB informed Audit in March 2020 that:

- (i) the improvement areas of the practical skills assessments were identified by technical advisor through assessment observations. Technical advisor would suggest follow-up actions. Re-examination was one of the follow-up options but ERB needed to strike a balance between course quality and trainees benefit. For trainees who finished the courses long time ago, it was not appropriate to request re-assessments; and
 - (ii) in 2018-19, ERB arranged another two assessment observations for the same course on assessments conducted by the concerned assessor, and the observation results were satisfactory; and
- (b) ***Certificate in Health Worker Training Course.*** The Certificate in Health Worker Training Course was approved by the Director of Social Welfare under the Residential Care Homes (Elderly Persons) Regulation (Cap. 459A). According to the assessment observation report, the practical skills assessment for the Certificate in Health Worker Training Course (i.e. pitched at QF Level 3) held in 2015-16 involving 17 trainees was not conducted in accordance with the ERB Guidelines as follows:
- (i) skills of performing nasotracheal suction were not tested for a trainee;
 - (ii) the assessor allowed a trainee to verbally spell out the procedures of wound cleansing instead of conducting wound cleansing in practice;
 - (iii) the assessor did not verify the accuracy in the test of medicine distribution for two trainees; and
 - (iv) taking correct volume of liquid medicine was not tested.

No inspections were conducted to follow up whether improvement measures had been taken. Among 17 trainees attending the assessment, 13 passed the assessment in the first attempt and 4 passed in the second attempt. All of them were issued graduation certificates. The 17 graduated trainees were considered qualified to register as a professional health worker for the purpose of employment at a residential care home for the elderly. In response to Audit enquiry, ERB informed Audit in March 2020

that instead of blaming the assessor, ERB considered that it would be better to improve the assessment paper and specify the requirement clearly. Thus, another assessment observation was not arranged as the follow-up action on this case. It was not considered as non-compliance with assessment guidelines. The investigations by ERB at that time concluded that the assessment arrangement was not well written in the guidelines. The guidelines were then updated for clarification as part of the follow-up actions.

3.12 Audit considers that ERB needs to ensure that course-end assessments are conducted by training bodies in accordance with the ERB Guidelines. ERB also needs to take appropriate follow-up actions with training bodies when non-compliance of course-end assessment guidelines by training bodies is found, and consider whether remedial actions are necessary for those trainees who have passed the assessment but the assessment has not been conducted according to the ERB Guidelines.

Audit recommendations

3.13 **Audit has *recommended* that ED, ERB should:**

- (a) **ensure that on-site annual audits and self-evaluations are conducted according to the ERB Guidelines;**
- (b) **keep in view the impact on the performance of training bodies after the relaxation of eligibility criteria for conducting self-evaluation by training bodies;**
- (c) **take measures to ensure that class surprise inspections are conducted for training centres according to the ERB Guidelines;**
- (d) **ensure that the course-end assessments are conducted by training bodies in accordance with the ERB Guidelines;**
- (e) **take appropriate follow-up actions with training bodies when non-compliance of course-end assessment guidelines by training bodies is found; and**

- (f) **consider whether remedial actions are necessary for those trainees who have passed the assessment but the assessment has not been conducted according to the ERB Guidelines.**

Response from ERB and the Hong Kong Council for Accreditation of Academic and Vocational Qualifications

3.14 ED, ERB agrees with the audit recommendations in principle. He has said that:

- (a) whether training bodies were allowed to undertake self-evaluation was based on the audit ratings in the two most recent on-site annual audits performed by ERB. Audit ratings from self-evaluation would not be used for the application for self-evaluation status. If training bodies undertook self-evaluation in one year, ERB must conduct on-site annual audit on the training bodies in the following year. Regarding the wording used in the guidelines, ERB will further update the guidelines to state more clearly about the arrangement of self-evaluation;
- (b) ERB will closely monitor the impact on the performance of training bodies after the relaxation of eligibility criteria;
- (c) if the courses in some of the inactive training centres were very short (say two days), and training bodies informed ERB about their class schedule very close to the commencement date (or had not even updated the class information) in the computer system, this would result in missing the arrangement of class surprise inspections to the corresponding training centres. In fact ERB had noted this shortcoming and, since February 2019, the computer system has been enhanced to alert the Quality Enhancement Team if there are such situations on or before the commencement date of the courses;
- (d) there was indeed unsatisfactory handling of the Foundation Certificate in Dim Sum Cook Training Course in its final assessment in 2017-18. ERB had since improved the arrangement;

- (e) follow-up actions have been carried out by ERB for the two cases quoted by Audit, and similar shortcomings shall not be repeated in the future;
- (f) ERB will ensure that the course-end assessments are conducted by training bodies in accordance with the guidelines;
- (g) ERB agrees to take immediate actions if there were non-compliances spotted out by assessment observations. These actions may include consultations with technical advisors/assessment observers, conducting follow-up assessment observations, remedial assessment and re-assessment if needed, etc.; and
- (h) ERB will enhance the mechanism of assessment observations and consider whether remedial actions are necessary.

3.15 ED, the Hong Kong Council for Accreditation of Academic and Vocational Qualifications (HKCAAVQ) has said that:

- (a) the Certificate in Health Worker Training Course is an approved programme by the Director of Social Welfare under the Residential Care Homes (Elderly Persons) Regulation;
- (b) there are detailed specifications issued by the Social Welfare Department on the training and the assessments;
- (c) if the assessments were not conducted according to the ERB Guidelines, which should be in line with the Social Welfare Department specifications, there will be impact on the learning outcomes and possibly the approval status of the programmes; and
- (d) ERB should take more stringent measures to monitor programmes that meet licensing requirements or have obtained professional recognition.

Course accreditation

Decreasing number and percentage of accredited training courses

3.16 The QF-related quality assurance is undertaken by HKCAAVQ. QF is a cross-sectoral hierarchy designed to put in order qualifications in the academic, vocational and continuing education sectors with a view to facilitating life-long learning and assisting individuals to set personal goals and directions in continuous studies for obtaining recognised qualifications. Recognised qualifications are uploaded onto the Qualifications Register, which is a web-based database on learning programmes leading to such qualifications and the relevant operators, granting bodies, QF Levels, modes of delivery, etc.

3.17 According to the final recommendations of the strategic review endorsed by the Chief Executive-in-Council in March 2009 (see para. 1.5), ERB would strengthen its quality assurance mechanism of courses to ensure the recognition of courses by HKCAAVQ and their uploading onto the Qualifications Register. In 2018-19, 308 training courses were accredited, comprising 127 pitched at QF Level 1, 147 at Level 2, 32 at Level 3 and 2 at Level 4. Apart from obtaining accreditation status at course level, ERB has obtained the Programme Area Accreditation status in the “Catering, Food and Beverage Services” sub-area since 2018-19.

3.18 According to HKCAAVQ’s application requirement, only courses with trainees enrolled are eligible for application for re-accreditation. Audit reviewed the training courses with enrolled trainees and analysed the percentages among those courses that were accredited. Audit found that in the period from 2014-15 to 2018-19, there was a decreasing trend in both the number of accredited courses and the percentage:

- (a) the number of accredited courses decreased from 469 in 2014-15 to 308 in 2018-19; and
- (b) the percentage of accredited courses among courses with enrolled trainees decreased from 95% in 2014-15 to 58% in 2018-19 (see Table 17).

Table 17
Number and percentages of accredited training courses
(2014-15 to 2018-19)

	2014-15	2015-16	2016-17	2017-18	2018-19
No. of courses with trainees enrolled (a)	494	489	499	515	528
No. of accredited courses (b)	469	315	317	312	308
Percentage of accredited courses (c)=(b)÷(a)×100%	95%	64%	64%	61%	58%

Source: Audit analysis of ERB records

3.19 In response to Audit enquiry, ERB informed Audit in February 2020 that to ensure effective use of resources, ERB reviewed the changing needs of the employment market to identify suitable courses for accreditation or re-accreditation. Audit considers that ERB needs to endeavour to increase the number of accredited training courses to promote recognition of the qualifications of ERB graduates.

Audit recommendation

3.20 Audit has *recommended* that ED, ERB should endeavour to increase the number of accredited training courses to promote recognition of the qualifications of ERB graduates.

Response from ERB

3.21 ED, ERB agrees with the audit recommendation. He has said that:

- (a) ERB will review the progress and criteria for selecting suitable courses for accreditation and re-accreditation in the coming three years according to the 3-year strategic plan;

Quality assurance

- (b) with the Programme Area Accreditation status for the sub-area of “Catering, Food and Beverage Services”, ERB will upload more courses to the Qualifications Register; and
- (c) ERB will well plan for the application of the second Programme Area Accreditation status for the sub-area of “Information & Communications Technology” so that more courses could be uploaded to the Qualifications Register.

PART 4: TRAINING SUPPORT SERVICES

4.1 This PART examines the training support services provided by ERB, focusing on the following areas:

- (a) Service Centre and Service Spots (paras. 4.2 to 4.10); and
- (b) job referral platforms (paras. 4.11 to 4.31).

Service Centre and Service Spots

4.2 ERB has set up a district-based Service Centre in Tin Shui Wai and 37 Service Spots in collaboration with different social service organisations in various districts to provide training services and information on training courses available to local residents. The 37 Service Spots comprise 10 in Kwai Tsing and Tsuen Wan, 12 in Kowloon West and 15 in Kowloon East. In 2018-19, the total expenditure of the Service Centre and Service Spots was \$18.6 million.

4.3 The Service Centre (Tin Shui Wai) occupies an area of 10,387 square feet. It commenced operation in January 2012 to offer self-help and support services to those with training and employment needs. The service targets are people aged 15 or above, with education attainment at sub-degree level or below. The Service Centre provides information on courses of ERB offered by training bodies in the respective district and enrolment service for ERB courses. The Service Centre offers multi-media computer facilities and makes available reference material and self-learning softwares for use at the reading corners. The Service Centre organises course and industry seminars, workshops on job search skills and generic skills, and sessions on topical issues to disseminate information on latest market situation and enhance the generic and vocational skills of the members. An engagement agreement was signed between ERB and the operator of the Service Centre. Membership is valid for two years and is free-of-charge. As at 31 October 2019, the Service Centre had 19,956 members.

4.4 Engagement agreements were signed between ERB and the three operators of the 37 Service Spots. Under the agreements, the operators are required to:

Training support services

- (a) operate consignment booths to provide enquiry and enrolment services for ERB courses and organise industry seminars and taster courses; and
- (b) deploy staff at the Service Spots on a regular basis to provide personal assistance.

Few tenders received for operation of Service Centre and Service Spots

4.5 ERB procured the services for operation of the Service Centre and the Service Spots by restricted tendering. Invitations for tender were issued to the prospective service providers which fulfilled the prescribed requirements and conditions of the tender exercises for the operation of the Service Centre and the Service Spots as approved by the Course and Service Development Committee of ERB. Examples of the requirements on service providers and conditions of the tender exercises for the operation of the Service Centre and the Service Spots in the period from 2011 to 2019 were shown in Table 18.

Table 18

Examples of requirements on service providers and conditions of tender exercises for the operation of Service Centre and Service Spots (2011 to 2019)

	Service Centre	Service Spot
Requirement on service providers	<p>(a) ERB appointed training bodies; and</p> <p>(b) Having held ERB training courses in the past three years, two years of which have successfully held placement-tied courses.</p>	<p>(a) ERB appointed training bodies;</p> <p>(b) Having held ERB training courses in the past three years, two years of which have successfully held placement-tied courses; and</p> <p>(c) Having training centres in the same region/district where the Service Spots are to be located.</p>
Condition of tender exercises	<p>(a) Existing operators of Service Spots (or other Service Centre (Note), if applicable) are not allowed to bid;</p> <p>(b) Not allowed to tender jointly with other training bodies; and</p> <p>(c) Each training body should submit one tender only.</p>	<p>(a) Existing operators of other Service Spots and Service Centre are not allowed to bid;</p> <p>(b) Not allowed to tender jointly with other training bodies; and</p> <p>(c) Each training body should submit one tender only.</p>

Source: Audit analysis of ERB records

Note: The Service Centre (Kowloon West) ceased operation with effect from 1 December 2017 and the Service Centre (Kowloon East) ceased operation with effect from 1 August 2019.

4.6 Audit examination of the tender exercises for the operation of the Service Centre (Tin Shui Wai) and the Service Spots conducted in the period from 2011 to 2019 revealed that the responses from the service providers were lukewarm in the period from 2015 to 2019:

- (a) ***Service Centre (Tin Shui Wai).*** In 2011, ten tenders (including only five conforming tenders) were received in response to the 95 invitations for tender issued for the operation of the Service Centre (Tin Shui Wai). In 2015, in response to the 96 invitations for tender issued, only two tenders were received. Of these two tenders, only the tender from the incumbent service provider was a conforming tender. In response to the 51 invitations for tender issued in 2019, only one tender, which was a conforming tender, was received from the incumbent service provider (see Table 19);
- (b) ***Service Spots (Kwai Tsing and Tsuen Wan).*** In response to the 19 invitations for tender issued for the operation of the Service Spots (Kwai Tsing and Tsuen Wan) in 2015, five tenders (including only one conforming tender) were received. In 2019, in response to the 13 invitations for tender issued, only one tender, which was a conforming tender, was received from the incumbent service provider (see Table 20);
- (c) ***Service Spots (Kowloon West).*** In 2017, of the 35 invitations for tender issued for the operation of the Service Spots (Kowloon West), only two tenders (both were conforming tenders) were received (see Table 20); and
- (d) ***Service Spots (Kowloon East).*** In 2018, of the 21 invitations for tender issued for the operation of the Service Spots (Kowloon East), only one tender, which was a conforming tender, was received (see Table 20).

Table 19

Number of invitations for tender issued and tenders received for operation of Service Centre (Tin Shui Wai) (2011 to 2019)

Date of invitation	Term of engagement agreement	No. of invitations	No. of tenders received
10 Feb 2011	1 Dec 2011 to 30 Nov 2013 (Note)	95	10 (only 5 tenders were conforming tenders)
23 Apr 2015	1 Dec 2015 to 30 Nov 2017 (Note)	96	2 (only the tender from the incumbent service provider was a conforming tender)
5 Dec 2019	1 Jun 2020 to 31 May 2023	51	1 (a conforming tender from the incumbent service provider)

Source: Audit analysis of ERB records

Note: According to the engagement agreement between ERB and the service provider, subject to satisfactory performance of the service provider during the term and for meeting operational requirement, ERB may negotiate with the service provider for an extension of the term under the same terms and conditions except for those amendments agreed by both parties. The engagement agreement with the term from 1 December 2011 to 30 November 2013 was extended with the incumbent service provider by 24 months (i.e. up to 30 November 2015). Another engagement agreement with the term from 1 December 2015 to 30 November 2017 was extended with the incumbent service provider by 30 months (i.e. up to 31 May 2020).

Remarks: Service Centre (Tin Shui Wai) commenced operation in January 2012.

Table 20

Number of invitations for tender issued and tenders received for operation of Service Spots (2015 to 2019)

Service Spot	Date of invitation	Term of engagement agreement	No. of invitations	No. of tenders received
Service Spots (Kwai Tsing and Tsuen Wan)	16 Dec 2015	1 Apr 2016 to 31 Mar 2018 (Note)	19	5 (only one tender was a conforming tender)
	8 Aug 2019	1 Apr 2020 to 31 Mar 2022	13	1 (a conforming tender from the incumbent service provider)
Service Spots (Kowloon West)	22 Jun 2017	1 Oct 2017 to 31 Mar 2020	35	2 (both were conforming tenders)
Service Spots (Kowloon East)	18 Sep 2018	1 Jan 2019 to 31 Mar 2021	21	1 (the tender was a conforming tender)

Source: Audit analysis of ERB records

Note: According to the engagement agreement between ERB and the service provider, subject to satisfactory performance of the service provider during the term and for meeting operational requirement, ERB may negotiate with the service provider for an extension of the term under the same terms and conditions except for those amendments agreed by both parties. The engagement agreement with the term from 1 April 2016 to 31 March 2018 was extended with the incumbent service provider by 24 months (i.e. up to 31 March 2020).

Remarks: Service Spots (Kwai Tsing and Tsuen Wan), Service Spots (Kowloon West) and Service Spots (Kowloon East) commenced operation in August 2016, April 2018 and September 2019 respectively.

4.7 In response to Audit enquiry, ERB informed Audit in March 2020 that:

- (a) to ensure training bodies' knowledge of the tender exercises of the Service Centre and Service Spots, ERB would conduct tender briefing for all qualified bidders after issuing the tender document. After the deadline of tender, ERB would inquire some bidders of the reasons for not submitting the tender. In the previous tender exercises of the Service Centre and Service Spots, most training bodies responded that due to recruitment difficulties in the social services sector in the past few years, they did not have sufficient qualified staff to bid and take up new projects; and
- (b) for each tender exercise, the tender requirements and conditions were formulated based on the service needs, scope and requirements which were subject to review and approval of the Course and Service Development Committee. ERB would review the tender requirements and conditions from time to time with a view to striking a reasonable balance between synergy of services and encouragement of competition in the tender exercises.

4.8 Over-prescribing requirements may perpetuate incumbent advantage, inhibiting competition and leading to over-reliance on single contractor. Audit noted that the only conforming tender was the one from the incumbent service provider in the tender exercises for operation of the Service Centre (Tin Shui Wai) conducted in 2015 and 2019 and the Service Spots (Kwai Tsing and Tsuen Wan) in 2019. As a result, the same service provider would have operated the Service Centre (Tin Shui Wai) for 11.5 years from December 2011 to May 2023 in three engagement agreements. Another service provider would have operated the Service Spots (Kwai Tsing and Tsuen Wan) for six years from April 2016 to March 2022 in two engagement agreements. Audit considers that ERB needs to take measures to enhance competition in the tender exercises for operation of the Service Centre and the Service Spots, for instance by relaxing the tender requirements and conditions to attract more operators to submit tenders.

Audit recommendation

4.9 **Audit has recommended that ED, ERB should take measures to enhance competition in the tender exercises for operation of the Service Centre and the Service Spots, for instance by relaxing the tender requirements and conditions to attract more operators to submit tenders.**

Response from ERB

4.10 ED, ERB agrees with the audit recommendation in principle. He has said that ERB will review the tender requirements and conditions regularly with a view to striking a reasonable balance between synergy of services and encouragement of competition in the tender exercises.

Job referral platforms

4.11 ERB provides the following two job referral platforms:

- (a) *Smart Living Scheme.* The Smart Living Scheme was launched in March 2009. It offers a one-stop referral platform for domestic, care and massage services to increase employment opportunities for ERB graduates of relevant courses; and
- (b) *Smart Baby Care Scheme.* The Smart Baby Care Scheme was launched in June 2013. It provides centralised referral services for post-natal care and infant and child care for ERB graduates of relevant courses.

Need to endeavour to improve performance of the operators of Smart Living Scheme

4.12 The Smart Living Scheme is a one-stop free referral platform for domestic services. Through the Scheme, employers can recruit “Smart Helpers” for domestic, care and massage service. Graduates of related ERB courses can expand their employer networks and enhance their employment opportunities. In 2018-19, there were eight Smart Living – Regional Service Centres (two on Hong Kong Island, three in Kowloon, two in the New Territories West and one in the New Territories East) operated by seven operators. In 2018-19, the annual expenditure of Smart Living Scheme was about \$10 million.

4.13 According to the engagement agreements signed between ERB and the operators for the operation of Smart Living – Regional Service Centres under the Smart Living Scheme:

- (a) service targets are set out in the agreement for each Smart Living – Regional Service Centre in respect of:
 - (i) number of vacancies registered (with a weighting of 20%);
 - (ii) number of vacancies filled (with a weighting of 60%); and
 - (iii) number of helpers placed (with a weighting of 20%);
- (b) in the event that the service targets as set out in the agreement are not achieved, ERB may regard this as a fundamental breach provided that in such event ERB at its discretion may require the agreement to discontinue; and
- (c) in case the service provider fails to meet the annual service targets as set out in the agreement, ERB will deduct the amount of the agreed funding in the last quarter of the year according to the scale stated in the agreement (i.e. the composite performance score calculated according to the weighting of each service target).

4.14 ERB has formulated and stipulated in the Operation Guidelines a mechanism to monitor the performance of the service providers on a monthly, quarterly and yearly basis and the follow-up actions to be taken in case of performance deficiencies. ERB monitors the service providers by the composite performance score which reflects the weighted overall performance. It is stipulated in the engagement agreements that service providers with annual composite performance score of 90 or above will be disbursed with full fund for the year.

4.15 Audit examination of the achievement of the overall annual service targets of the Smart Living Scheme (i.e. number of vacancies registered, number of vacancies filled and number of helpers placed) for the period from 2014-15 to 2018-19 (see Table 21) revealed the following issues:

- (a) ***Number of vacancies registered.*** The overall annual service target on the number of vacancies registered was not met for all five years during the period;

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- (b) *Number of vacancies filled.* The overall annual service target on the number of vacancies filled was not met for 2016-17 and 2018-19; and
- (c) *Number of helpers placed.* Except for 2017-18, the overall annual service target on the number of helpers placed was not met for the other four years during the period.

Table 21

**Achievement of overall annual service targets of Smart Living Scheme
(2014-15 to 2018-19)**

Year	Performance	Service target		
		No. of vacancies registered	No. of vacancies filled	No. of helpers placed
2014-15	Target (a)	45,400	29,880	19,240
	Actual (b)	45,237	30,002	17,464
	Percentage achieved (c)=(b) ÷ (a) × 100 %	99.6%	100.4 %	90.8%
2015-16	Target (d)	45,400	29,880	19,240
	Actual (e)	43,603	29,952	18,036
	Percentage achieved (f)=(e) ÷ (d) × 100 %	96.0%	100.2%	93.7%
2016-17	Target (g)	45,400	29,880	19,240
	Actual (h)	39,871	29,312	18,623
	Percentage achieved (i)=(h) ÷ (g) × 100 %	87.8%	98.1%	96.8%
2017-18	Target (j)	45,400	29,880	19,240
	Actual (k)	41,155	31,136	19,715
	Percentage achieved (l)=(k) ÷ (j) × 100 %	90.7%	104.2%	102.5%
2018-19	Target (m)	40,000	29,000	19,000
	Actual (n)	37,103	26,555	17,200
	Percentage achieved (o)=(n) ÷ (m) × 100 %	92.8%	91.6%	90.5%

Legend:  Service target not met

Source: *Audit analysis of ERB records*

Remarks: *According to ERB, the overall annual composite performance scores (see para. 4.13(c)) in the period from 2014-15 to 2018-19 ranged from 92 to 101 marks, averaging 97 marks, with the lowest score of 92 in 2018-19.*

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4.16 Audit further examined the achievement of the annual service targets and required annual composite performance scores by individual Smart Living – Regional Service Centres for the period from 2014-15 to 2018-19 (see Table 22) and found the following issues:

- (a) ***Number of vacancies registered.*** The annual service target on the number of vacancies registered was not met by 5 to 10 Smart Living – Regional Service Centres during the period;
- (b) ***Number of vacancies filled.*** The annual service target on the number of vacancies filled was not met by 4 to 7 Smart Living – Regional Service Centres during the period;
- (c) ***Number of helpers placed.*** The annual service target on the number of helpers placed was not met by 4 to 8 Smart Living – Regional Service Centres during the period; and
- (d) ***Annual composite performance score.*** For 2 to 5 Smart Living – Regional Service Centres, the required annual composite performance score of 90 was not met during the period.

Table 22

**Achievement of service targets by and annual composite performance scores of
Smart Living – Regional Service Centres
(2014-15 to 2018-19)**

Year	Service target	No. of Smart Living – Regional Service Centres	No. of Centres not meeting service targets	No. of Centres where the annual composite performance score was below 90
2014-15	No. of vacancies registered	11	7	4
	No. of vacancies filled		7	
	No. of helpers placed		7	
2015-16	No. of vacancies registered	11	7	5
	No. of vacancies filled		7	
	No. of helpers placed		8	
2016-17	No. of vacancies registered	11	10	5
	No. of vacancies filled		7	
	No. of helpers placed		6	
2017-18	No. of vacancies registered	11	9	2
	No. of vacancies filled		4	
	No. of helpers placed		4	
2018-19	No. of vacancies registered	8	5	4
	No. of vacancies filled		6	
	No. of helpers placed		6	

Source: Audit analysis of ERB records

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4.17 In response to Audit enquiry, ERB informed Audit in February and March 2020 that:

- (a) the main reasons for the failure to meet some service targets of the Smart Living Scheme included the competition with other domestic helpers mobile applications, time needed to build up network with employers and helpers and decreasing number of graduate trainees;
- (b) ERB was developing a mobile application to enhance the service quality of the Smart Living Scheme and Smart Baby Care Scheme. The application was developed internally by the ERB Information Technology Team. The launch date was originally scheduled for September 2019. However, to work in tandem with the government's alleviation measures announced in July 2019, ERB had to launch a "Love Upgrading Special Scheme" in October 2019. The full ERB Information Technology Team was deployed to develop the backend system for the special programme and the development of the application had been on hold for a few months, thereby deferring the launch date; and
- (c) ERB planned to launch the mobile application in March 2020 after conducting two briefing sessions with the service providers and the training bodies. However, due to the latest epidemic situation, the briefing sessions were pending for the time being. ERB would endeavour to launch the application in March 2020 as scheduled.

4.18 Audit considers that ERB needs to endeavour to improve the performance of the operators of the Smart Living Scheme.

Need to closely monitor the performance of operators of Smart Living Scheme

4.19 In 2018-19 and 2019-20, there were eight Smart Living – Regional Service Centres operated by seven operators. The term of the engagement agreements for these eight Smart Living – Regional Service Centres is two years from 1 April 2018 to 31 March 2020. Upon expiry of the engagement agreements, ERB may renew the engagement agreements with the operators for another two years, depending on the service needs and effectiveness, the performance of the operators and the price quotations of the operators. According to the engagement agreements, the

performance of the operators would be evaluated based mainly on the composite performance score:

- (a) the score of 100 would be awarded to an operator if 100% is achieved for each of the service targets; and
- (b) if the score of an operator is below 90 in a year, an amount would be deducted from the payment to the operator in the last quarter of the year. For example, only 95% would be paid to an operator scoring 85 to 89 marks, and only 75% would be paid to an operator scoring below 70 marks.

According to the Operation Guidelines for the Smart Living Scheme, if an operator has a score below 80 for two quarters within a year, ERB may consider terminating the agreement unless the operator improves and achieves at least 80 marks in the following month upon written request.

4.20 Audit examined the scores of the operators of the eight Smart Living – Regional Service Centres for the first two quarters of 2019-20 and noted that three operators had a score below 80:

- (a) **Operator A.** Operator A scored 67 and 68 in the first and the second quarter respectively;
- (b) **Operator B.** Operator B scored 69 and 67 in the first and the second quarter respectively; and
- (c) **Operator C.** Operator C scored 75 and 67 in the first and the second quarter respectively.

These three operators achieved none of the three service targets in both the first and the second quarters of 2019-20 (see Table 23).

Table 23

**Performance of operators of Smart Living – Regional Service Centres
(1st and 2nd quarter of 2019-20)**

Operator	Service target (weighting)	1st quarter (April to June 2019)	2nd quarter (July to September 2019)
		Achievement of service targets	
Operator A	No. of vacancies registered (20%)	73%	74%
	No. of vacancies filled (60%)	63%	64%
	No. of helpers placed (20%)	71%	64%
Operator B	No. of vacancies registered (20%)	74%	69%
	No. of vacancies filled (60%)	64%	65%
	No. of helpers placed (20%)	77%	73%
Operator C	No. of vacancies registered (20%)	75%	65%
	No. of vacancies filled (60%)	77%	68%
	No. of helpers placed (20%)	72%	63%

Source: Audit analysis of ERB records

4.21 In its meeting held on 7 November 2019, the Course and Service Development Committee decided that:

- (a) **Operator A.** ERB would not renew the engagement agreement with Operator A after the expiry of current agreement on 31 March 2020 due to its unsatisfactory performance since 2018-19; and
- (b) **Operators B and C.** For Operator B and Operator C, ERB would terminate their engagement agreements if they could not score 80 marks or above in December 2019.

4.22 In response to Audit enquiry, ERB informed Audit in February 2020 that:

- (a) **Operator B.** Operator B achieved 77 marks in December 2019, which was below the required level of 80 marks. However, in view of the latest situation of novel coronavirus infection which would affect the tendering process and the performance of the new operator, the Course and Service Development Committee approved to renew the engagement agreement with Operator B for another two years from 1 April 2020; and
- (b) **Operator C.** As the score of Operator C was above 80 marks in December 2019, ERB would renew the engagement agreement with Operator C for another two years from 1 April 2020.

4.23 Considering that ERB would renew the engagement agreements with Operator B and Operator C who had unsatisfactory performance in two consecutive quarters of 2019-20 for another two years from 1 April 2020, Audit considers that ERB needs to continue to closely monitor the performance of the operators of the Smart Living Scheme who have failed to achieve service targets laid down in the engagement agreements and where necessary, take appropriate follow-up actions if the operators do not achieve the service targets again.

Some service requirements in respect of KPIs of Smart Baby Care Scheme not met

4.24 In June 2013, ERB launched the Smart Baby Care Scheme to centrally follow up post-natal care and infant and child care job vacancies, and to provide one-stop referral services for household employers as well as graduate trainees of related courses offered by ERB. Marketing campaigns including online and offline advertisements, printed materials, promotions in social media, exhibitions, seminars, expos and media interviews were launched and organised over the years to promote the brand and services of the Smart Baby Care Scheme. In 2018-19, the annual expenditure of the Smart Baby Care Scheme was \$2.5 million.

4.25 According to the engagement agreements signed between ERB and the operator for the operation of the Smart Baby Care Scheme:

- (a) service requirements are set out in the agreement in respect of six KPIs:
 - (i) number of vacancies registered (with a weighting of 10%);
 - (ii) number of vacancies filled (with a weighting of 40%);
 - (iii) number of helpers placed (with a weighting of 10%);
 - (iv) number of new graduate trainees placed (with a weighting of 20%);
 - (v) satisfaction rate of employers on the services of fresh graduates (with a weighting of 10%); and
 - (vi) satisfaction rate of new graduate trainees and employers to the services of the operator (with a weighting of 10%);
- (b) in the event that the KPI performance as set out in the agreement is not achieved, ERB may regard this as a fundamental breach provided that in such event ERB at its discretion may require the agreement to discontinue; and

- (c) in case the service provider fails to meet the annual KPI performance requirements as set out in the agreement, ERB will deduct the amount of the agreed funding in the last quarter of the year according to the scale stated in the agreement (i.e. the composite performance score calculated according to the weighting of each KPI).

4.26 ERB has formulated and stipulated in the Operation Guidelines a mechanism to monitor the performance of the service provider on a monthly, quarterly and yearly basis and the follow-up actions to be taken in case of performance deficiencies. ERB monitors the service provider by the composite performance score which reflects the weighted overall performance. As stipulated in the engagement agreement, a service provider with annual composite performance score of 90 marks or above will be disbursed with full fund for the year.

4.27 Audit analysed the achievement of service requirements in the period from 2016-17 to 2018-19 (see Table 24) and found that service requirements were not met for two KPIs:


- (a) ***Number of vacancies registered.*** The service requirement was not met in all the three years during the period; and
- (b) ***Satisfaction rate of employers on the services of fresh graduates.*** The service requirement was not met in 2016-17.

The service requirements in respect of the remaining four KPIs were all met throughout the period.

Table 24

**Service requirements of Smart Baby Care Scheme not met
(2016-17 to 2018-19)**

KPI (weighting)	Service requirement	2016-17		2017-18		2018-19	
		No.	Requirement met	No.	Requirement met	No.	Requirement met
No. of vacancies registered (10%)	4,200	3,444	✗	3,342	✗	3,801	✗
Satisfaction rate of employers on the services of fresh graduates (10%)	85%	81%	✗	85%	✓	86%	✓

Legend:  Service requirement not met
✓ denotes requirement achieved
✗ denotes requirement not achieved

Source: *Audit analysis of ERB records*

Remarks: *According to ERB, the overall annual composite performance scores in 2016-17, 2017-18 and 2018-19 were 104, 106 and 106 respectively.*

4.28 Audit noted that ERB started to develop a mobile application for the Smart Baby Care Scheme in 2018. ERB informed the Course and Service Development Committee in August 2019 that the mobile application for helpers to register in the Smart Baby Care Scheme would be launched in September 2019. However, up to January 2020, the development of the mobile application was yet to be completed (see also para. 4.17(b) and (c)).

4.29 Audit considers that ERB needs to endeavour to enhance the popularity of the Smart Baby Care Scheme and improve the performance of the operator of the Scheme.

Audit recommendations

- 4.30 **Audit has *recommended* that ED, ERB should:**
- (a) **endeavour to improve the performance of the operators of the Smart Living Scheme;**
 - (b) **continue to closely monitor the performance of the operators of the Smart Living Scheme who have failed to achieve service targets laid down in the engagement agreements and where necessary, take appropriate follow-up actions if the operators do not achieve the service targets again; and**
 - (c) **endeavour to enhance the popularity of the Smart Baby Care Scheme and improve the performance of the operator of the Scheme.**

Response from ERB

- 4.31 ED, ERB agrees with the audit recommendations. He has said that ERB will:
- (a) continue to assist the operators of the Smart Living Scheme to improve their performance. The “ERB Helper” mobile application was already published on online stores and was officially launched on 30 March 2020 for registered helpers of the Smart Living Scheme and Smart Baby Care Scheme to search vacancies and apply for jobs;
 - (b) continue to closely monitor the performance of the operators of the Smart Living Scheme which have failed to achieve service requirements stipulated in the engagement agreements and take appropriate follow-up actions if the operators fail to achieve the service targets again; and
 - (c) continue to promote and reinforce the brand name of the Smart Baby Care Scheme, and assist the operator to improve its performance.

PART 5: CORPORATE GOVERNANCE AND ADMINISTRATIVE ISSUES

5.1 This PART examines ERB's corporate governance and administrative issues, focusing on the following areas:

- (a) corporate governance (paras. 5.2 to 5.14);
- (b) human resource management (paras. 5.15 to 5.23);
- (c) management of ERF (paras. 5.24 to 5.31);
- (d) financial incentives provided to trainees (paras. 5.32 to 5.40); and
- (e) procurement and inventory management (paras. 5.41 to 5.46).

Corporate governance

5.2 The governing body of ERB is its Board. Board members are appointed by the Chief Executive (see para. 1.6). As at 31 December 2019, the Board had 16 members, comprising a Chairman, a Vice-Chairman, four persons representing employers, four persons representing employees, four members connected with vocational training and retraining or manpower planning, and two government officials. Board members are appointed for a term not exceeding three years and are eligible for re-appointment. The Board is responsible for the formulation of policies for ERB's training and services while its policies are implemented by the Executive Office headed by ED. The Board has established six Committees:

- (a) Course and Service Development Committee;
- (b) Course Vetting Committee;
- (c) Quality Assurance and Review Committee;
- (d) Public Relations and Promotion Committee;

- (e) Finance and Administration Committee; and
- (f) Audit Committee.

Members of the Committees are mainly Board members. ERB may also appoint non-Board members to serve as co-opted members of the Committees.

Late circulation of agendas of Board/Committee meetings

5.3 It was stipulated in the ERB Guidelines that unless with approval from the respective chairpersons of the Board/Committees, notices on meeting and the meeting agendas should be circulated to members at least one week before the meeting.

5.4 Audit examined the records of the 129 Board/Committee meetings conducted during the period from 2014-15 to 2018-19 and found that 14 (10.9%) of the 129 meeting agendas were circulated to members less than one week before the meetings. The delays ranged from 1 to 3 days (averaging 2 days). To allow members adequate time to prepare for Board/Committee meetings, Audit considers that ERB needs to endeavour to circulate meeting agendas to Board/Committee members in a timely manner according to the requirement stipulated in the ERB Guidelines.

Late issue of minutes of Board/Committee meetings

5.5 In the 2011 Audit Review, Audit found that ERB did not set a time target to ensure that draft meeting minutes would be issued in a timely manner. Audit reported in 2011 that for the 67 Board/Committee meetings held from 2008-09 to 2010-11, the average time taken for issuing draft minutes to members was 79 days. For 48 (72%) meetings, draft minutes were issued 60 days or more after the meetings. In its response to the 2011 Audit Review, ERB said that it would ensure that draft minutes of Board/Committee meetings would be issued within a period of one month after the meetings.

5.6 In the current Audit Review, Audit noted that the ERB Guidelines still had not stipulated a time target for the issue of draft meeting minutes. Audit examined the records of draft minutes of the Board/Committee meetings conducted during the period from 2014-15 to 2018-19 and found that 10 (7.8%) of the 129 draft minutes were not issued within one month after the meetings. The delays ranged from

1 to 10 days, averaging 4 days. Audit considers that ERB needs to set a time target for the issue of draft meeting minutes to Board/Committee members in the ERB Guidelines and take measures to ensure its compliance.

Need to review MAA requirements

5.7 According to MAA, ERB should submit to the Secretary for Labour and Welfare for approval an Annual Plan, containing the following information:

- (a) ERB's activities and their objectives;
- (b) number of training places being offered and/or to be offered under different programmes and training modes;
- (c) current performance indicators, achievement of existing targets and any new targets proposed by ERB;
- (d) a detailed estimation of income and expenditure with due regard to the financial position of ERF and plans for the coming year;
- (e) a summary of the proposed programme focusing on the main objectives, performance indicators and resources; and
- (f) results of user opinion surveys and retention surveys for placement-tied retraining courses.

5.8 Audit examined the Annual Plans submitted by ERB for the period from 2015-16 to 2019-20 and found the following issues:

- (a) ***Performance indicators.*** ERB included targets for performance indicators in the Annual Plans. However, the actual achievements of targets in the previous year were not included in the Plans as required; and
- (b) ***Results of user opinion surveys and retention surveys.*** In the 2011 Audit Review, Audit found that ERB had not reported the results of user opinion surveys and retention surveys in the Annual Plans. ERB accepted Audit's recommendation and said that it would include the results in the Annual

Plans. However, in the current Audit Review, Audit found that the results were still not reported in the Annual Plans.

5.9 In March 2020, in response to Audit enquiry, ERB informed Audit that:

- (a) it was not feasible to include a complete picture of actual performance indicators of the year in the Annual Plan, which was due for submission to the Secretary for Labour and Welfare in March every year. As an alternative, ERB reported the actual achievement of performance indicators to the Quality Assurance and Review Committee on a quarterly basis. The report would then be submitted to the Board, in which the Permanent Secretary for Labour and Welfare was a member. The annual achievement would be published in the Annual Report of ERB;
- (b) the findings of the user opinion surveys and the retention surveys were reported in the Quality Assurance and Review Committee meetings at regular intervals so that all Board members, including the Permanent Secretary for Labour and Welfare, were fully aware of the findings. The findings of the surveys would also be published in the Annual Report of ERB; and
- (c) the Annual Plan was mainly formulated by ERB to seek approval of the Secretary for Labour and Welfare on the work and activities to be carried out in the coming year. It was not supposed to include massive underpinning data, findings and background information for planning or analytical purposes.

Audit considers that ERB needs to, in collaboration with LWB, review MAA requirements pertinent to the Annual Plan with a view to ensuring that the requirements are practicable and revise them where necessary. ERB also needs to take measures to ensure that MAA requirements are complied with.

Need to enhance procedures of making declarations of interests by Board/Committee members

5.10 According to the ERB Guidelines, members (including the Board Chairman, Board/Committee members and co-opted members of the Committees) should submit written declarations of interests, including interests arising from their paid or

voluntary positions in any company or organisation, to the Executive Office of ERB at the time of their appointments or re-appointments. All declarations of interests shall be kept by the Executive Office of ERB and be available to public upon request. In addition, members should also disclose their interests in any matter under consideration by the Board or the Committees prior to their discussion of the matter in the meeting. In practice, ERB requested members to submit declarations annually.

5.11 Audit examined the records of declaration of interests for the period from 2015-16 to 2019-20 and noted the following:

- (a) ***Requests for declarations of interests not issued in a timely manner.*** ERB sent the requests for declarations of interests to members after their appointments or re-appointments had been made. For Board members, the requests were made on average 74 days, ranging from 22 to 228 days, subsequent to the Board appointments or re-appointments. For non-Board co-opted members of the Committees, the requests were made on average 57 days, ranging from 2 to 196 days, after their appointments, Table 25 shows the details. In the period from 2015-16 to 2019-20 (up to 31 October 2019), the Board and the six Committees held 118 meetings. Of the 118 meetings, 31 (26.3%) were held before the submission deadlines of the declarations of interests by members. In particular, Audit noted that the delays for declarations in 2019-20 were significant. By the time ERB sent the requests for declarations of interests to members, it had already been four to five months after the first Board meeting and the first meetings of the six Committees were held. Audit considers that ERB needs to take measures to ensure that requests for declarations of interests are sent to Board/Committee members in a timely manner; and

Table 25

**Delays in requesting declarations of interests
from Board and Committee members after appointments or re-appointments
(2015-16 to 2019-20)**

Year	No. of Board members appointments or re-appointments	No. of days having elapsed when requests were sent	No. of co-opted Committee members appointments	No. of days having elapsed when requests were sent
2015-16	12	32	2	3
2016-17	2	60	2	2
2017-18	12	22	2	81
2018-19	2	28	2	4
2019-20	13	228	4	196

Source: Audit analysis of ERB records

- (b) **Late submission of declarations of interests.** For the period from 2015-16 to 2019-20, Board/Committee members submitted 92 declarations of interests. Of the 92 declarations, 17 (18.5%) were submitted after the submission deadlines stipulated by ERB. The delays ranged from 1 to 160 days, averaging 43 days. Audit considers that ERB needs to take measures to ensure that declarations of interests are submitted by Board/Committee members in a timely manner (e.g. by sending reminders to members) and members are not invited to attend meetings until their declarations of interests have been received.

Audit recommendations

5.12 **Audit has *recommended* that ED, ERB should:**

- (a) **endeavour to circulate the meeting agendas to Board/Committee members in a timely manner according to the requirement stipulated in the ERB Guidelines;**
- (b) **set a time target for the issue of draft meeting minutes to Board/Committee members in the ERB Guidelines and take measures to ensure its compliance;**
- (c) **in collaboration with LWB, review MAA requirements pertinent to the Annual Plan with a view to ensuring that the requirements are practicable and revise them where necessary;**
- (d) **take measures to ensure that MAA requirements are complied with; and**
- (e) **enhance procedures of making declarations of interests by Board/Committee members, including taking measures to ensure that:**
 - (i) **requests for declarations of interests are sent to members in a timely manner; and**
 - (ii) **declarations of interests are submitted by members in a timely manner (e.g. by sending reminders to members) and members are not invited to attend meetings until their declarations of interests have been received.**

Response from ERB and the Government

5.13 **ED, ERB agrees with the audit recommendations. He has said that:**

- (a) **ERB has already improved the timeliness in circulating the meeting agendas to Board/Committee members. During the 21 Board and Committee meetings held in 2019-20, all meeting agendas were issued to members at**

least one week before the date of meetings. The Executive Office will regularly remind committee secretaries to adhere to the requirements stipulated in the ERB Guidelines;

- (b) ERB has already issued internal guidelines to committee secretaries stating that, as a good practice, minutes of the meeting should be issued to Board/Committee members within one month after each meeting. During the 21 Board and Committee meetings held in 2019-20, all meeting minutes were issued according to such guidelines. The Executive Office will regularly remind committee secretaries to adhere to such requirement;
- (c) ERB will review MAA requirements pertinent to the Annual Plan in collaboration with LWB, and take measures to ensure that MAA requirements are complied with; and
- (d) ERB will improve procedures of making declarations of interests by Board/Committee members, including sending requests for declarations of interests to members within one month upon commencement of each appointment year/upon their appointments, and sending reminders to members to facilitate their timely submission of returns.

5.14 The Secretary for Labour and Welfare agrees with the audit recommendations. He has said that LWB will, in conjunction with ERB, review the relevant MAA requirements pertinent to the Annual Plan, including inclusion of such performance indicators as the achievement of targets, and results of ERB's user opinion surveys and retention surveys.

Human resource management

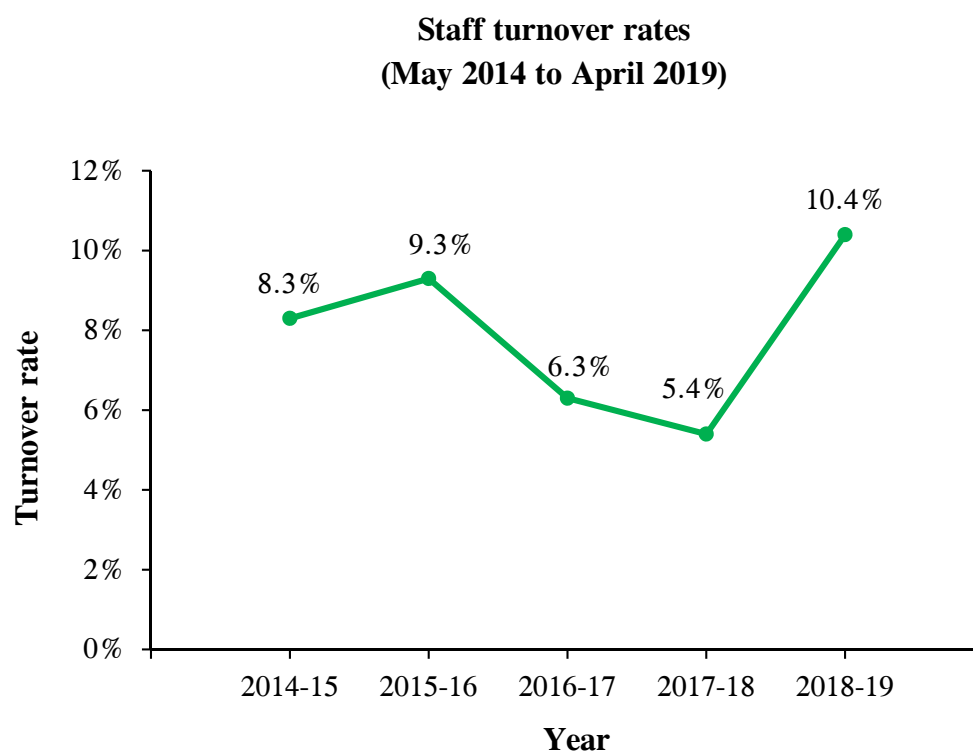
5.15 As at 31 October 2019, the staff establishment and staff strength of ERB were 268 staff (comprising 205 regular positions and 63 temporary positions) and 252 staff (comprising 192 regular positions and 60 temporary positions) respectively. In 2018-19, staff costs amounted to \$96.5 million.

Need to keep in view the increase in staff turnover rate

5.16 ERB reports the annual staff turnover rate (from May of a year to April of the following year) to the Board and the Finance and Administration Committee for

their deliberation. Audit examined the annual staff turnover rates for the period from 2014-15 to 2018-19 and found that the rate decreased from 8.3% in 2014-15 to 5.4% in 2017-18 but increased significantly to 10.4% in 2018-19 (see Figure 3).

Figure 3



Source: Audit analysis of ERB records

5.17 In the Board meeting held in June 2019, in response to a Board member's query on the high turnover rate, the Executive Office of ERB advised that leavers were mainly executive grade staff and staff from the Information Technology Section. They resigned during the year mainly because they had found jobs with more competitive remuneration packages. Audit considers that ERB needs to keep in view the staff turnover rate and explore feasible measures to address the issue if the high turnover rate persists.

Need to enhance the review on senior staff remuneration

5.18 According to MAA, ERB should:

- (a) at each interval of not more than three years, submit a review report to the Secretary for Labour and Welfare on the review of the top three tiers of staff remuneration packages having regard to the prevailing Government guidelines and instructions of the Secretary for Labour and Welfare to ensure that such senior staff remuneration packages are appropriate; and
- (b) make arrangements for disclosure of the outcome to the public where necessary.

5.19 ERB's top three tiers of staff included one ED, four Deputy EDs and seven Senior Managers. In March 2020, in response to Audit enquiry, LWB informed Audit that in accordance with MAA and the Director of Administration's circular memorandum in March 2003 (updated in August 2018) on the general guidelines for control and monitoring of remuneration practices in respect of senior staff in subvented organisations, LWB had been monitoring the remuneration packages of the top two tiers of ERB's staff (i.e. ED and Deputy EDs) by comparing the costs of their remuneration with those of civil servants at appropriate ranks. Monitoring at the top tiers was expected to filter down to other tiers, create a ceiling effect and provide a broad framework for the remuneration of other ERB staff.

5.20 The latest senior staff remuneration review report was submitted by ERB to LWB in September 2017. Audit examined the review report and noted that:

- (a) ERB only included cash remuneration, i.e. basic salary, cash allowances, gratuity, performance based bonus and the thirteenth month pay in the review; and
- (b) non-cash benefits and retirement benefits, which were also part of the staff remuneration packages, were not reported. For instance, senior staff can choose to join the Occupational Retirement Scheme. Under the Scheme, depending on the staff's year of services, senior staff can earn monthly retirement benefits equivalent to 5% to 15% of his basic salary.

Audit considers that non-cash benefits and retirement benefits are part and parcel of the staff remuneration package. ERB needs to include non-cash and retirement benefits in the senior staff remuneration review report submitted to LWB.

Audit recommendations

5.21 **Audit has *recommended* that ED, ERB should:**

- (a) **keep in view the staff turnover rate and explore feasible measures to address the issue if the high turnover rate persists; and**
- (b) **include non-cash and retirement benefits in the senior staff remuneration review report submitted to LWB.**

Response from ERB and the Government

5.22 ED, ERB agrees with the audit recommendations. He has said that ERB will:

- (a) continue monitoring the staff turnover rate and if the high turnover rate persists, ERB would explore feasible measures including enhancing staff training, conducting organisation and salary structure review with a view to retaining talents; and
- (b) include non-cash and retirement benefits in the 2020 organisation and salary structure review for the top three tiers of staff.

5.23 The Secretary for Labour and Welfare has said that LWB will take into account Audit's recommendation in the upcoming triennial review of ERB's senior staff remuneration packages in the second half of 2020.

Management of ERF

5.24 ERB is the body corporate responsible for administering ERF. Under ERO, ERF shall be used to make provisions for the payment of retraining allowances in respect of trainees attending retraining courses or supplementary retraining programmes and to defray the costs of those courses and programmes (see (a), (g) and (i) in Appendix A).

5.25 Before August 2008, the Employees Retraining Levy was the major source of funding for ERB. As part of the relief package with anti-inflationary initiatives, the Government suspended the collection of the Levy for the period from 1 August 2008 to 31 July 2013 (Note 17). Effective from 1 August 2013, the Government has abolished the imposition of levy on the employers of foreign domestic helpers to ease the financial burden on families employing foreign domestic helpers.

5.26 In February 2014, after obtaining approval from the Legislative Council's Finance Committee in January 2014, the Government injected a sum of \$15 billion into ERF primarily as seed money for generating investment income to finance the services and operation of ERB on a long-term basis. It was stated in the Finance Committee paper that:

- (a) ERB was expected to finance its services and operation mainly with the investment income from the \$15 billion injection;
- (b) a substantial portion of ERF would be placed with the Hong Kong Monetary Authority (HKMA). The placement would enable ERB to earn an investment return that was linked to the performance of the Exchange Fund;
- (c) ERB would carefully monitor its financial condition to ensure that the investment return, the Employees Retraining Levy and other incomes together with the balance of ERF, would be sufficient to cover the cash flow requirements of ERB over the long-term period; and

Note 17: *During the suspension period, ERB relied on the remainder of ERF to sustain its services and operation. As at 31 March 2013, the balance of ERF was about \$2 billion.*

- (d) in the long run, ERB should seek to optimise the use of the Government injection and strive to operate on a financially sustainable basis with due regard to cost effectiveness.

In February 2014, ERB made a placement of \$12.5 billion with HKMA for six years with maturity on 24 February 2020 and kept the remaining \$2.5 billion for daily operation. In February 2020, the placement with HKMA was renewed with a revised amount of \$9.6 billion for six years from 25 February 2020.

Need to monitor the financial condition of ERB

5.27 Audit examined the financial condition of ERB in the period from 2014-15 to 2018-19 and noted that:

- (a) interest income comprised that from the placement with HKMA and that from fixed deposits at local banks. The annual interest income represented on average 94% of total income received by ERB;
- (b) ERB incurred a deficit every year, ranging from \$142 million to \$401 million (averaging \$296 million) (see Table 26); and
- (c) the balance of ERF decreased by \$1,478 million (9%) from \$16,280 million as at 1 April 2014 to \$14,802 million as at 31 March 2019 (see Table 26).

Table 26

**Movement of balance of ERF
(2014-15 to 2018-19)**

	2014-15 (\$ million)	2015-16 (\$ million)	2016-17 (\$ million)	2017-18 (\$ million)	2018-19 (\$ million)
Beginning balance of ERF (a)	16,280	16,049	15,907	15,506	15,114
Interest income (b)	561	671	452	472	599
Income other than interest income (c)	28	35	36	33	38
Total income (d)=(b)+(c)	589	706	488	505	637
Total expenditure (e)	820	848	889	897	949
Deficit (f)=(d)-(e)	(231)	(142)	(401)	(392)	(312)
Ending balance of ERF (g)=(a)+(f)	16,049	15,907	15,506	15,114	14,802

Source: ERB records

5.28 According to the estimation made by ERB, the balance of ERF would further decrease to \$8,330 million in February 2026, representing a decrease of \$6,472 million (44%) from \$14,802 million as at 31 March 2019. In March 2020, in response to Audit enquiry, ERB informed Audit that:

- (a) it had all along adopted a prudent approach in controlling its expenses. In the past five years, nearly 90% of its annual expenditures had been spent on provision of training courses and services. Administrative expenses as a percentage to the total expenditures were kept at low level. ERB had not increased the number of headcounts since 2011;

- (b) it had made efforts to maximise interest income. For example, it invested ERF by making placement with HKMA, which generated relatively higher interest returns as compared to other investment products. ERB reviewed the interest rates for fixed deposits monthly to maximise interest income; and
- (c) it would collaborate with LWB in taking measures to ensure the long-term financial sustainability of ERB. As announced in the 2020-21 Budget, the Government would provide \$2.5 billion to ERB to enhance the Love Upgrading Special Scheme and increase the maximum monthly allowance to \$5,800. It would continue to utilise ERF in a prudent and effective manner in providing retraining courses and services.

Audit considers that ERB needs to, in collaboration with LWB, monitor the financial condition of ERB to ensure that ERB remains in sound financial condition (see para. 5.26(c)).

Audit recommendation

5.29 **Audit has *recommended* that ED, ERB should in collaboration with LWB, monitor the financial condition of ERB to ensure that ERB remains in sound financial condition.**

Response from ERB and the Government

5.30 ED, ERB agrees with the audit recommendation in principle. He has said that ERB will continue to closely monitor the financial condition of ERB and report regularly to the Finance and Administration Committee and the Board (members include the representative from LWB).

5.31 The Secretary for Labour and Welfare has said that LWB has been continuously monitoring the financial condition of ERB through vetting of ERB's Annual Plan, which contains, inter alia, financial information on actual and estimated income and expenditure. In view of the noticeable increase in expenditure in the coming years due to the introduction of the first tranche of Love Upgrading Special Scheme in October 2019 and planned introduction of the second tranche in July 2020,

and the anticipated increase in the statutory cap on the rate of monthly retraining allowance per trainee, the Government has already proposed to inject an additional \$2.5 billion into ERF through the Appropriation Bill 2020.

Financial incentives provided to trainees

5.32 To encourage enrolment and provide assistance to persons in need, ERB provides financial incentives in the form of retraining allowances and course fee reduction for trainees attending placement-tied courses and non-placement-tied courses respectively:

- (a) ***Retraining allowances.*** ERB provides placement-tied courses free of charge. Trainees who fulfil the stipulated eligibility criteria can apply for retraining allowances (see para. 2.10); and
- (b) ***Course fee reduction.*** Non-placement-tied courses are fee-charging. The course fee charged by ERB depends on individual trainee's level of income, as follows:
 - (i) ***Course fee waiver.*** Trainees who have a monthly income of \$12,000 (\$11,000 before 1 April 2020) or less receive full course fee waiver. In 2018-19, 94% of the trainees received full course fee waiver;
 - (ii) ***Highly subsidised course fee.*** ERB refers the course fees paid by trainees who have a monthly income between \$12,001 and \$20,000 (\$19,500 before 1 April 2020) as highly subsidised course fee. The amount of highly subsidised course fee of a course is about 30% of the course cost incurred by the training body. In 2018-19, 5% of the trainees paid highly subsidised course fee; and
 - (iii) ***Normal subsidised course fee.*** ERB refers the course fees paid by trainees who have a monthly income above \$20,000 as normal subsidised course fee. The amount of normal subsidised course fee of a course is about the course cost incurred by the training body. In 2018-19, 1% of the trainees paid normal subsidised course fee.

5.33 In order to encourage trainees' attendance and to deter trainees from providing false information, ERB would recover the financial incentives provided to trainees in the following circumstances:

- (a) ***Low attendance.*** Trainees of non-placement-tied courses who received course fee waiver or paid highly subsidised course fee but failed to achieve 80% attendance rate are required to pay a sum to ERB. The sum payable varies for different courses and is made known to the trainees at the time of course application. The Finance & Accounts Section of the Corporate Services Division checks the attendance after the attendance records were submitted by training bodies and issue demand notes to trainees with attendance rate below 80% according to the records submitted by training bodies; and
- (b) ***Provision of false information.*** ERB conducts sample checks to verify trainees' declared information, such as education attainment, employment status and income level. The Course Administration Section of the Training Services Division checks the trainees' education attainment and employment status, whereas the Quality Enhancement Section of the Quality Assurance Division checks the trainees' income levels. If trainees are found to have provided false information, the Sections will issue demand notes to the trainees requiring them to pay a sum to ERB (see Table 27).

Table 27

Sum payable to ERB for trainees providing false information

Type of false information provided	Sum payable	
	For placement-tied courses	For non-placement-tied courses
(a) for trainees who provided false information to receive a higher level of retraining allowances (e.g. understating the education attainment as Secondary 3 or below)	Difference of retraining allowances	N/A
(b) for trainees who provided false information to enrol in ERB courses (e.g. understating the education attainment as sub-degree or below or falsely claimed to be unemployed)	Course cost and retraining allowances	Course cost
(c) for trainees who provided false information to obtain course fee waiver or pay highly subsidised course fee (e.g. understating the income level)	N/A	Difference of the course fees that should be paid by the trainees and the actual fees paid

Source: ERB records

In 2018-19, ERB identified 4,405 cases in which recovery actions were needed.

Majority of recoverable financial incentives could not be recovered

5.34 Audit examined the recovery of financial incentives in the period from 2014-15 to 2018-19 and noted that the amount of financial incentives recovered from the trainees who had low attendance rate or had provided false information was low. According to ERB's estimation, about 70% of recoverable financial incentives were subsequently written off. The amount of recoverable financial incentives written off was \$12 million, ranging from \$2.2 million to \$2.6 million each year (see Table 28).

Table 28

**Recoverable financial incentives written off
(2014-15 to 2018-19)**

Year	Financial incentives provided to trainees (\$'000)	
	Recoverable	Written off (Note)
2014-15	3,193	2,231
2015-16	3,440	2,331
2016-17	3,210	2,606
2017-18	3,186	2,505
2018-19	2,993	2,440
Total	16,022	12,113

Source: ERB records

Note: The amount written off in a year comprises write-offs of recoverable financial incentives made in past years. The percentage of recoverable in a particular year that was subsequently written off was not readily available. According to ERB's estimation, about 70% of recoverable financial incentives were subsequently written off.

5.35 Need to explore effective measures to encourage attendance and deter provision of false information. The failure to recover the majority of financial incentives indicates that the effectiveness of encouraging attendance and deterring the provision of false information is doubtful. ERB needs to explore other effective measures to encourage trainees to achieve a high attendance rate and to deter them from providing false information (for example, by stepping up efforts against trainees who provided false information (see para. 5.38)).

5.36 Need to rationalise the follow-up actions taken by ERB. Three Sections of ERB are responsible for taking actions to recover the financial incentives provided to trainees (see para. 5.33). Audit noted that there were differences among the

follow-up actions taken by the Finance & Accounts Section, the Course Administration Section and the Quality Enhancement Section (see Table 29). Audit considers that ERB needs to rationalise the follow-up actions taken by different Sections in recovering the financial incentives from trainees.

Table 29

**Follow-up actions taken by ERB to
recover financial incentives from trainees**

Section	Nature of cases handled	Follow-up actions
Finance & Accounts Section	Low attendance	Issue a reminder to the trainee one month after the issuance of the demand note. If the trainee does not settle the demand note, he will not be allowed to enrol in any ERB training courses for one year from the commencement date of the concerned course for the first time violation, or for three years for repeated violations.
Course Administration Section	Provision of false information	Reminders are issued regularly to trainees who provided false information to enrol in ERB courses after the issuance of the demand note. No reminders are issued for other cases. Follow-up actions are taken according to the number of times the trainee is found to have provided false information (Note).
Quality Enhancement Section	Provision of false information	No reminder is issued. Follow-up actions are taken according to the number of times the trainee is found to have provided false information (Note).

Source: ERB records

Note: According to the ERB Guidelines: (a) trainees who were found to have provided false information the first and second time would not be allowed to enrol in any ERB training courses for 3 and 12 months respectively from the issue dates of the demand note if they settled the demand notes or for one and two years respectively if they did not; and (b) trainees who were found beyond second time would be referred to the relevant authorities for possible legal actions when warranted.

5.37 *Need to step up efforts to refer cases of provision of false information to law enforcement authorities.* In 2018-19, the total amount of recoverable financial incentives written off was about \$2.4 million, involving 3,043 cases. Audit analysed these 3,043 cases and noted that:

- (a) 2,835 (93%) cases involved amounts not more than \$1,000 each; and
- (b) 19 (1%) cases involved amounts more than \$10,000 each (see Table 30). All the 19 cases were related to the provision of false information.

Table 30

Amount of demand notes written off in 2018-19

Amount of demand notes written off	No. of cases	Percentage
≤ \$1,000	2,835	93%
> \$1,000 to \$10,000	189	6%
> \$10,000 to \$50,000	19	1%
Total	3,043	100%

Source: ERB records

5.38 Provision of false information dishonestly could amount to an offence under ERO and the Theft Ordinance (Cap. 210). Audit examined ERB's records in the period from 2014-15 to 2018-19 and noted that it did not refer any cases of provision of false information to law enforcement authorities for legal actions. In March 2020, in response to Audit enquiry, ERB informed Audit that:

- (a) according to the ERB Guidelines, ERB would refer the suspected fraud cases to relevant authorities for possible legal actions when warranted (e.g. when the trainees concerned were found the third time to have violated certain ERB rules); and

- (b) as of March 2020, ERB spotted no such case.

To enhance the deterrent effect against such wrongdoings, Audit considers that ERB needs to consider the need to step up efforts to refer cases of provision of false information to law enforcement authorities for legal actions.

Audit recommendations

5.39 **Audit has recommended that ED, ERB should:**

- (a) **explore other effective measures to encourage trainees to achieve a high attendance rate and to deter them from providing false information;**
- (b) **rationalise the follow-up actions taken by different Sections in recovering the financial incentives from trainees; and**
- (c) **consider the need to step up efforts to refer cases of provision of false information to law enforcement authorities for legal actions.**

Response from ERB

5.40 ED, ERB agrees with the audit recommendations in principle. He has said that:

- (a) the overall attendance rate of non-placement-tied courses is above 90%, and for trainees who failed to attain the minimum attendance requirement (i.e. 80%), their absences were mainly due to illness, employment, other personal and family reasons. ERB will closely monitor the overall attendance rate of non-placement-tied courses and take follow-up actions as necessary; and
- (b) the follow-up actions taken by various Sections in recovering the financial incentives from trainees are different mainly due to the differences in the nature of cases involved. The established mechanism of ERB has already included the measures of taking legal actions if appropriate. Audit's recommendation will be taken into consideration in the review of

mechanisms in recovering the financial incentives from trainees according to the 3-year Strategy Plan (2020-21 to 2022-23) of ERB.

Procurement and inventory management

Room for improvement in procurement of microcomputers equipment and information technology services

5.41 Procurement activities of ERB need to follow the requirements stipulated in ERB's Procurement Policy and Guidelines. According to the Guidelines, for procurement of goods and services with value more than \$5,000 but not more than \$50,000, if more than two quotations were received, staff at the Manager level can accept the quotation, otherwise, the acceptance should be made by staff at the Senior Manager level. In 2018-19, ERB purchased about \$3.8 million of microcomputers equipment and information technology services. Audit examined 30 purchases with a total amount of \$1.3 million (34%) and noted that in one case for the renewal of computer security services with value of \$6,016, one of the three quotations received was related to another purchase. In other words, only two valid quotations were received. Nevertheless, the acceptance of one of the two valid quotations was made by a Manager instead of Senior Manager.

5.42 In March 2020, in response to Audit enquiry, ERB informed Audit that it considered that the case was in compliance with the Procurement Policy and Guidelines because three quotations were actually received. Audit considers that ERB needs to revise the Procurement Policy and Guidelines with a view to making it clear that the authority of different staff levels in accepting quotations is determined by the number of valid quotations received excluding invalid quotations.

Room for improving inventory check procedures

5.43 According to MAA, ERB shall draw up its own rules for matters such as regulation and control of its finance procedures, which should be consistent with the prevailing guidelines and practices of the Government. According to ERB's Guidelines on Stores Management, inventory items include stores of generally

non-consumable nature (with useful life of more than one year) and with a unit cost at or above \$1,000 (Note 18). Inventory check should be carried out as follows:

- (a) ***Full-scale inventory check.*** A full-scale inventory check of all inventory items (except software items) against the inventory record should be carried out by the inventory holders or their designated officers once each financial year to ensure completeness and accuracy of their inventory records; and
- (b) ***Surprise inventory check.*** A surprise inventory check should be conducted by the inventory holders or their designated officers once each financial year. At least 10% or 50 pieces of the total inventory items (except software items) should be randomly selected in the surprise inventory check.

5.44 Conducting inventory checks by the inventory holders themselves or their designated officers lacks independence and is not conducive to effective inventory control. Audit considers that ERB needs to consider improving the inventory check procedures and enhance the effectiveness of the checks as far as practicable. For instance, ERB may consider conducting inventory checks by parties other than the inventory holders themselves or their designated officers (e.g. by its Finance & Accounts Section or Internal Audit Section).

Audit recommendations

5.45 **Audit has recommended that ED, ERB should:**

- (a) **revise the Procurement Policy and Guidelines with a view to making it clear that the authority of different staff levels in accepting quotations is determined by the number of valid quotations received excluding invalid quotations; and**

Note 18: *Inventory items also include: (a) all components of a project with a total cost at or above \$1,000; or (b) items below \$1,000 but which are attractive and prone to loss (e.g. computer monitor).*

- (b) consider improving the inventory check procedures and enhance the effectiveness of the checks as far as practicable.

Response from ERB

5.46 ED, ERB agrees with the audit recommendations. He has said that ERB will:

- (a) take into consideration Audit's recommendation in the review of the Procurement Policy and Guidelines in 2020-21; and
- (b) review the current Guidelines on Stores Management and explore the feasibility of revising the inventory check procedures.

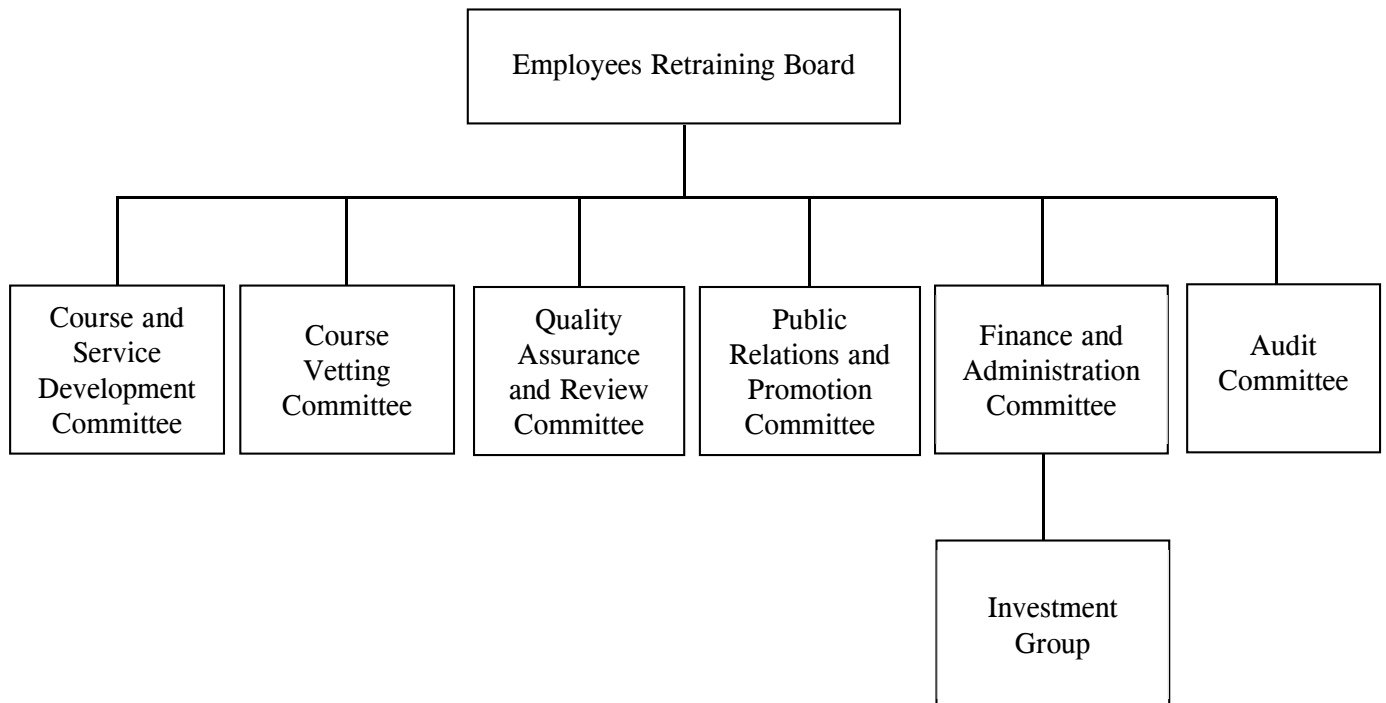
Functions of ERB under ERO

According to ERO, functions of ERB are:

- (a) to hold the Employees Retraining Fund upon trust to administer the Employees Retraining Fund in accordance with the objects of this Ordinance;
- (b) to receive the Employees Retraining Levy imposed on employers and remitted by the Director of Immigration;
- (c) to consider the provision, administration and availability of retraining courses and supplementary retraining programmes intended or designed for the benefit of eligible employees in adjusting to changes in the employment market by acquiring new or enhanced vocational skills;
- (d) to identify particular occupations or classes of occupation that have high vacancy rates and in respect of which eligible employees may secure employment or re-employment by attending retraining courses or supplementary retraining programmes as trainees to acquire new or enhanced vocational skills;
- (e) to liaise with training bodies, other related organisations and Government departments with respect to the design, administration and availability of retraining courses and supplementary retraining programmes;
- (f) to determine the requirements to be satisfied by eligible employees for the purposes of applying to attend retraining courses or supplementary retraining programmes and receive retraining allowances, and the amount of retraining allowances to be paid to those eligible employees as trainees;
- (g) to pay retraining allowances to trainees;
- (h) to engage the services of training bodies for the purpose of providing or conducting retraining courses;
- (i) to defray the costs of the provision of retraining courses and supplementary retraining programmes;
- (j) to perform such other functions as are imposed on ERB under ERO; and
- (k) to appoint, by notice in the Gazette, a training provider whose function is to provide training or retraining under a supplementary retraining programme.

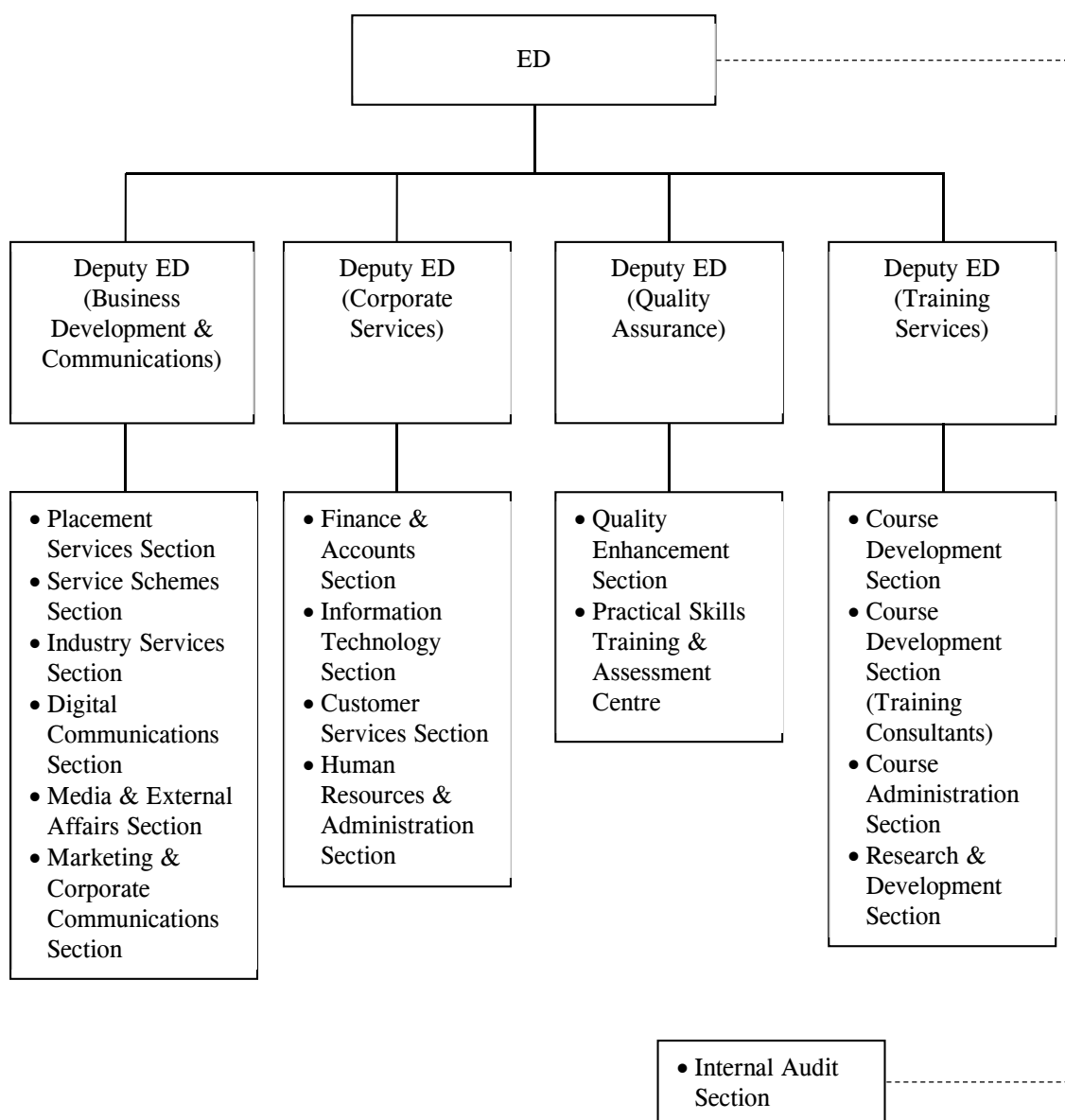
Source: ERO

**Committees under ERB
(31 December 2019)**



Source: ERB records

ERB: Organisation chart (extract)
(31 December 2019)



Source: ERB records

Acronyms and abbreviations

Audit	Audit Commission
ED	Executive Director
ERB	Employees Retraining Board
ERF	Employees Retraining Fund
ERO	Employees Retraining Ordinance
HKCAAVQ	Hong Kong Council for Accreditation of Academic and Vocational Qualifications
HKMA	Hong Kong Monetary Authority
KPI	Key performance indicator
LWB	Labour and Welfare Bureau
MAA	Memorandum of Administrative Arrangements
QF	Qualifications Framework

EMPLOYEES RETRAINING BOARD

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1. In 1992, the Employees Retraining Board (ERB) was established as a statutory body under the Employees Retraining Ordinance (ERO — Cap. 423). Under ERO, the functions of ERB are, inter alia, to consider the provision, administration and availability of retraining courses and supplementary retraining programmes intended or designed for the benefit of eligible employees in adjusting to changes in the employment market by acquiring new or enhanced vocational skills, and to engage the services of training bodies for the purpose of providing or conducting retraining courses. Since December 2007, ERB has extended its scope of service targets to include people aged 15 or above with education attainment at sub-degree level or below. The governing body of ERB is its Board. ERB has established six Committees and an Investment Group to carry out different functions. As at 31 December 2019, ERB had 195 permanent staff and 60 contract and temporary staff. In 2018-19, ERB's income was \$637.3 million and the expenditure was \$949.3 million. The Audit Commission (Audit) has recently conducted a review of ERB.

Management of training services

2. ***Decreasing number of young trainees admitted to ERB courses.*** Audit noted that in the period from 2014-15 to 2018-19: (a) the percentages of young trainees aged 15 to 29 admitted to ERB training courses among all trainees were not high (ranging from 8.4% to 12.2%); (b) the number and percentage of such young trainees decreased from 13,423 (12.2%) in 2014-15 to 10,695 (8.4%) in 2018-19; and (c) the number of trainees admitted under youth training courses was low, ranging from 374 to 508, averaging 441, and decreased by 19% from 508 in 2014-15 to 412 in 2018-19 (paras. 2.5 and 2.6).

3. ***Decreasing number of ethnic minorities admitted to ERB courses.*** Audit analysed the utilisation of planned places of courses for special targets for the years 2014-15 to 2018-19 and noted that: (a) the number of admitted trainees of ethnic minorities was low, decreasing from 374 in 2014-15 to 225 in 2018-19; (b) the utilisation of planned places of courses for ethnic minorities decreased from 47% in 2014-15 to 28% in 2018-19; and (c) despite the fact that less than half of the planned

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places were utilised and the decrease in the number of admitted trainees of ethnic minorities, the number of planned places had not been adjusted (para. 2.8).

4. ***Need to review the retraining allowances for placement-tied courses.*** For placement-tied courses with duration of seven days or more, trainees are eligible for retraining allowances if their attendance rates reach 80% or more. The retraining allowances per day for different categories of courses and different trainees ranged from \$30 to \$153.8. Audit noted that no review on the existing rates of retraining allowances had been conducted for over 10 years since April 2009. In view of the decreasing number of young trainees admitted to ERB training courses, ERB needs to review the existing rates of retraining allowances (paras. 2.10, 2.12 and 2.13).

5. ***Room for improvement in new course development.*** Audit examined 16 of the 274 new courses approved in the period from 2014-15 to 2018-19 and noted that: (a) the information regarding the availability of similar courses in the market and the competitiveness of the proposed courses in comparison with those existing in the market was not included in the course proposals and the papers submitted to the Course and Service Development Committee; and (b) there was inconsistency in proposals for courses developed by ERB and training bodies. Training bodies were required to state the number of classes proposed, but such information was not required for courses developed by ERB (para. 2.16).

6. ***Some training courses not suspended although no classes were held for many years.*** According to the ERB Guidelines, training courses for general trainees will be considered for suspension if no class has been held continuously for three years. Audit found that of the 36 courses with no classes held for three years from 2014-15 to 2016-17, the Course Management Working Group approved not to suspend 34 (94%) of the courses. However, for 2 (6%) of the 36 courses, there was no evidence showing that the Course Management Working Group approved not to suspend them. Audit also noted that the Course and Service Development Committee and Course Vetting Committee were not provided with information on the course suspension (paras. 2.18, 2.21 and 2.22).

7. ***Long waiting times of courses for some applicants.*** Training courses are held at the training centres of training bodies in various districts. Each training centre maintains its own waiting lists of applicants for the training courses. As at 31 December 2019, there were 52,659 applicants on the waiting lists (comprising

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10,661 applicants for placement-tied courses and 41,998 applicants for non-placement-tied courses). Audit found that: (a) of the 10,661 applicants for placement-tied courses, 2,172 (20%) had been on the waiting lists for more than four months (i.e. the waiting time specified in the performance pledge); and (b) of the remaining 41,998 applicants for non-placement-tied courses, 14,526 (35%) had been on the waiting lists for more than five months (i.e. the waiting time specified in the performance pledge) (para. 2.27).

8. ***Some training courses did not meet targets on key performance indicators (KPIs).*** Audit analysed the performance of KPIs for the period from 2014-15 to 2018-19 and noted that some training courses did not meet the performance targets: (a) of the 2,525 training courses held during the period, 336 (13.3%) did not meet the target capacity utilisation rate of 85%; (b) of the 2,516 training courses with classes completed during the period, 230 (9.1%) did not meet the target attendance rate of 80%; (c) graduation rate has been set as a KPI since 2015-16. Of the 2,020 training courses with classes completed in the period from 2015-16 to 2018-19, 159 (7.9%) did not meet the target graduation rate of 80%; and (d) of the 744 placement-tied courses for general trainees, persons with disabilities and persons recovered from work injuries, and youth training courses, 52 (7%) did not meet the target placement rate of 70%. Of the 118 placement-tied courses for ethnic minorities, rehabilitated ex-offenders and new arrivals, 31 (26.3%) did not meet the target placement rate of 50% (paras. 2.33 to 2.37).

9. ***Some training courses did not meet targets on reference indicators.*** Audit analysed the performance of reference indicators for the period from 2014-15 to 2018-19 and noted that some training courses did not meet the performance targets and the overall retention rate decreased: (a) of the 825 applicable placement-tied courses, 602 (73%) did not meet the target relevancy rate to training of 60%; (b) of the 190 placement-tied courses aiming at full-time employment in the period from 2015-16 to 2018-19, 60 (32%) did not meet the target continuous employment rate of 60%; and (c) the overall retention rate for placement-tied courses decreased from 64% in 2014-15 to 61% in 2018-19 (paras. 2.40 to 2.43).

Quality assurance

10. ***Annual audits not performed according to ERB Guidelines.*** According to the ERB Guidelines, if a training body obtained Group 1 rating in the on-site annual

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audits performed by ERB in the last two consecutive years, the training body will be allowed to undertake self-evaluation for one year. Audit noted that, of the 367 annual audits conducted in the period from 2014-15 to 2018-19, 127 (35%) were self-evaluations. However, of these 127 self-evaluations, 60 (47%) self-evaluations were performed by training bodies which did not obtain Group 1 rating in the on-site annual audits performed by ERB in the last two consecutive years (paras. 3.3 and 3.4).

11. ***Class surprise inspections not conducted for some training centres.*** According to the ERB quality assurance guidelines, training centres where ERB courses have been held will be selected for class surprise inspections at least once a year. However, Audit noted that for every year in the period from 2016-17 to 2018-19, two training centres were not inspected as required (paras. 3.7 and 3.8).

12. ***Need to improve course-end assessments.*** Audit reviewed the results of 50 assessment observations on course-end assessments conducted by ERB in the period from 2015-16 to 2018-19 and noted that there were non-compliances with assessment guidelines in 10 assessment observations. Audit found room for improvement in the follow-up actions taken by ERB on their results of assessment observations (para. 3.11). Examples are as follows:

- (a) ***Foundation Certificate in Dim Sum Cook Training Course.*** According to the guidelines on course-end assessments, candidates should complete the assessment within the time allowed. For the Foundation Certificate in Dim Sum Cook Training Course held in 2017-18, ERB found that trainees were allowed to prepare the custard stuffing prior to the commencement of the assessments. ERB subsequently found that the assessor had let trainees prepare the stuffing prior to the commencement of the assessments since June 2015 involving 5 classes. No re-assessments were conducted for the trainees involved (para. 3.11(a)); and
- (b) ***Certificate in Health Worker Training Course.*** According to the assessment observation report, the practical skills assessment for the Certificate in Health Worker Training Course held in 2015-16 was not conducted in accordance with the ERB Guidelines as follows:
 - (i) nasotracheal suction skills were not tested for a trainee;
 - (ii) the assessor allowed a trainee to verbally spell out the procedures of wound cleansing;
 - (iii) the assessor did not verify the accuracy in the test of medicine

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distribution for two trainees; and (iv) taking correct volume of liquid medicine was not tested. No inspections were conducted to follow up whether improvement measures had been taken (para. 3.11(b)).

13. ***Decreasing number and percentage of accredited training courses.*** Audit reviewed the training courses with enrolled trainees and analysed the percentages among those courses that were accredited by the Hong Kong Council for Accreditation of Academic and Vocational Qualifications. Audit found that in the period from 2014-15 to 2018-19: (a) the number of accredited courses decreased from 469 to 308; and (b) the percentage of accredited courses among courses with enrolled trainees decreased from 95% to 58% (para. 3.18).

Training support services

14. ***Few tenders received for operation of Service Centre and Service Spots.*** ERB procured the services for operation of the Service Centre and the Service Spots by restricted tendering. Invitations for tender were issued to the prospective service providers which fulfilled the prescribed requirements and conditions of the tender exercises for the operation of the Service Centre and the Service Spots as approved by the Course and Service Development Committee of ERB. Audit examination of the tender exercises for the operation of the Service Centre (Tin Shui Wai) and the Service Spots conducted in the period from 2011 to 2019 revealed that the responses from the service providers were lukewarm in the period from 2015 to 2019 (paras. 4.5 and 4.6):

- (a) ***Service Centre (Tin Shui Wai).*** In 2011, ten tenders (including only five conforming tenders) were received in response to the 95 invitations for tender issued for the operation of the Service Centre (Tin Shui Wai). In 2015, in response to the 96 invitations for tender issued, only two tenders were received. Of these two tenders, only the tender from the incumbent service provider was a conforming tender. In response to the 51 invitations for tender issued in 2019, only one tender, which was a conforming tender, was received from the incumbent service provider (para. 4.6(a));
- (b) ***Service Spots (Kwai Tsing and Tsuen Wan).*** In response to the 19 invitations for tender issued for the operation of the Service Spots (Kwai Tsing and Tsuen Wan) in 2015, five tenders (including only one conforming tender) were received. In 2019, in response to the 13 invitations for tender

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issued, only one tender, which was a conforming tender, was received from the incumbent service provider (para. 4.6(b));

- (c) ***Service Spots (Kowloon West).*** In 2017, of the 35 invitations for tender issued for the operation of the Service Spots (Kowloon West), only two tenders (both were conforming tenders) were received (para. 4.6(c)); and
- (d) ***Service Spots (Kowloon East).*** In 2018, of the 21 invitations for tender issued for the operation of the Service Spots (Kowloon East), only one tender, which was a conforming tender, was received (para. 4.6(d)).

15. ***Need to endeavour to improve performance of the operators of Smart Living Scheme.*** Service targets are set out in the engagement agreements signed between ERB and the operators for the operation of Smart Living – Regional Service Centres under the Smart Living Scheme. Audit examination of the achievement of the overall annual service targets of the Smart Living Scheme for the period from 2014-15 to 2018-19 revealed that: (a) the overall annual service target on the number of vacancies registered was not met for all five years; (b) the overall annual service target on the number of vacancies filled was not met for 2016-17 and 2018-19; and (c) except for 2017-18, the overall annual service target on the number of helpers placed was not met for the other four years. Audit further examined the achievement of the annual service targets and required annual composite performance scores by individual Smart Living – Regional Service Centres for the period from 2014-15 to 2018-19. Audit found that the annual service targets on the number of vacancies registered, vacancies filled and helpers placed were not met by 5 to 10, 4 to 7 and 4 to 8 Smart Living – Regional Service Centres respectively. For 2 to 5 Smart Living – Regional Service Centres, the required annual composite performance score of 90 was not met (paras. 4.13, 4.15 and 4.16).

16. ***Need to closely monitor the performance of operators of Smart Living Scheme.*** According to the Operation Guidelines for the Smart Living Scheme, if an operator has a composite performance score below 80 for two quarters within a year, ERB may consider terminating the agreement unless the operator improves and achieves at least 80 marks in the following month upon written request. Audit examined the scores of the operators of the eight Smart Living – Regional Service Centres for the first two quarters of 2019-20 and noted that three operators had a score below 80: (a) Operator A scored 67 and 68 in the first and the second quarter respectively; (b) Operator B scored 69 and 67 in the first and the second quarter

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respectively; and (c) Operator C scored 75 and 67 in the first and the second quarter respectively. These three operators achieved none of the three service targets in both the first and the second quarters of 2019-20 (paras. 4.19 and 4.20).

17. ***Some service requirements in respect of KPIs of Smart Baby Care Scheme not met.*** According to the engagement agreements signed between ERB and the operator for the operation of the Smart Baby Care Scheme, service requirements are set out in the agreement in respect of six KPIs and in the event that the KPI performance is not achieved, ERB may regard it as a fundamental breach. Audit analysed the achievement of service requirements in the period from 2016-17 to 2018-19 and found that service requirements were not met for two KPIs: (a) the service requirement on the number of vacancies registered was not met in all the three years during the period; and (b) the service requirement on the satisfaction rate of employers on the services of fresh graduates was not met in 2016-17 (paras. 4.25 and 4.27).

Corporate governance and administrative issues

18. ***Late circulation of agendas of Board/Committee meetings.*** Audit examined the records of the 129 Board/Committee meetings conducted during the period from 2014-15 to 2018-19 and found that 14 (10.9%) of the 129 meeting agendas were circulated to members less than one week before the meetings as required by the ERB Guidelines. The delays ranged from 1 to 3 days (averaging 2 days) (para. 5.4).

19. ***Late issue of minutes of Board/Committee meetings.*** In 2011, ERB said that it would ensure that draft minutes of Board/Committee meetings would be issued within one month after the meetings. Audit noted that the ERB Guidelines had not stipulated a time target. Audit examined the records of draft minutes of the Board/Committee meetings conducted during the period from 2014-15 to 2018-19 and found that 10 (7.8%) of the 129 draft minutes were not issued within one month after the meetings. The delays ranged from 1 to 10 days, averaging 4 days (paras. 5.5 and 5.6).

20. ***Need to enhance procedures of making declarations of interests by Board/Committee members.*** According to the ERB Guidelines, members (including the Board Chairman, Board/Committee members and co-opted members of the

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Committees) should submit written declarations of interests to the Executive Office of ERB at the time of their appointments or re-appointments. Audit examined the records of declaration of interest for the period from 2015-16 to 2019-20 and noted the following issues (paras. 5.10 and 5.11):

- (a) ***Requests for declarations of interests not issued in a timely manner.*** ERB sent the requests to Board members on average 74 days, ranging from 22 to 228 days, subsequent to the Board appointments or re-appointments. For non-Board co-opted members of the Committees, the requests were made on average 57 days, ranging from 2 to 196 days, after their appointments. Of the 118 meetings held in the period from 2015-16 to 2019-20 (up to 31 October 2019), 31 (26.3%) were held before the submission deadlines of the declarations of interests (para. 5.11(a)); and
 - (b) ***Late submission of declarations of interests.*** Of the 92 declarations submitted by Board/Committee members for the period from 2015-16 to 2019-20, 17 (18.5%) were submitted after the submission deadlines stipulated by ERB. The delays ranged from 1 to 160 days, averaging 43 days (para. 5.11(b)).
21. ***Need to keep in view the increase in staff turnover rate.*** As at 31 October 2019, the staff establishment and staff strength of ERB were 268 staff and 252 staff respectively. Audit examined the annual staff turnover rates for the period from 2014-15 to 2018-19 and found that the rate decreased from 8.3% in 2014-15 to 5.4% in 2017-18 but increased significantly to 10.4% in 2018-19 (paras. 5.15 and 5.16).
22. ***Need to enhance the review on senior staff remuneration.*** According to the Memorandum of Administrative Arrangements, ERB should at each interval of not more than three years, submit a review report to the Secretary for Labour and Welfare on the review of the top three tiers of staff remuneration packages to ensure that such senior staff remuneration packages are appropriate. Audit examined the latest senior staff remuneration review report and noted that ERB only included cash remuneration in the review report. Non-cash benefits and retirement benefits, which were also part of the staff remuneration packages, were not reported (paras. 5.18 and 5.20).

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23. ***Need to monitor the financial condition of ERB.*** In February 2014, the Government injected a sum of \$15 billion into the Employees Retraining Fund (ERF) primarily as seed money for generating investment income to finance the services and operation of ERB on a long-term basis. Audit examined the financial condition of ERB in the period from 2014-15 to 2018-19 and noted that: (a) ERB incurred a deficit every year, ranging from \$142 million to \$401 million (averaging \$296 million); and (b) the balance of ERF decreased by \$1,478 million (9%) from \$16,280 million as at 1 April 2014 to \$14,802 million as at 31 March 2019. According to the estimation made by ERB, the balance of ERF would further decrease to \$8,330 million in February 2026 (paras. 5.26 to 5.28).

24. ***Majority of recoverable financial incentives could not be recovered.*** To encourage enrolment and provide assistance to persons in need, ERB provides financial incentives in the form of retraining allowances and course fee reduction for trainees attending placement-tied courses and non-placement-tied courses respectively. ERB would recover the financial incentives from trainees of non-placement-tied courses who failed to achieve 80% attendance rate and trainees who are found to have provided false information. Audit found room for improvement in recovering of financial incentives, as follows (paras. 5.32 and 5.33):

- (a) ***Need to explore effective measures to encourage attendance and deter provision of false information.*** In the period from 2014-15 to 2018-19, the amount of recoverable financial incentives written off was \$12 million, ranging from \$2.2 million to \$2.6 million each year. According to ERB's estimation, about 70% of recoverable financial incentives were subsequently written off. The failure to recover the majority of financial incentives indicated that the effectiveness of encouraging attendance and deterring the provision of false information was doubtful (paras. 5.34 and 5.35);
- (b) ***Need to rationalise the follow-up actions taken by ERB.*** Three Sections of ERB, namely the Finance & Accounts Section, the Course Administration Section and the Quality Enhancement Section were responsible for taking actions to recover the financial incentives provided to trainees. Audit noted that there were differences among the follow-up actions taken by the three Sections (para. 5.36); and
- (c) ***Need to step up efforts to refer cases of provision of false information to law enforcement authorities.*** Provision of false information dishonestly

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could amount to an offence under ERO and the Theft Ordinance (Cap. 210). Audit examined ERB's records in the period from 2014-15 to 2018-19 and noted that it did not refer any cases of provision of false information to law enforcement authorities for legal actions. Although the ERB Guidelines stipulated that ERB would refer the suspected fraud cases to relevant authorities for possible legal actions when warranted, as of March 2020, no such case was spotted by ERB (para. 5.38).

25. *Need to improve the inventory check procedures.* According to ERB's Guidelines on Stores Management, inventory checks (including full-scale inventory check and surprise inventory check) were conducted by the inventory holders or their designated officers. Such practice lacked independence and was not conducive to effective inventory control (paras. 5.43 and 5.44).

Audit recommendations

26. **Audit recommendations are made in the respective sections of this Audit Report. Only the key ones are highlighted in this Executive Summary. Audit has *recommended* that the Executive Director, ERB should:**

Management of training services

- (a) **step up efforts to improve the popularity of training services for young people (para. 2.23(b));**
- (b) **step up efforts to enhance the attractiveness of training services for ethnic minorities (para. 2.23(d));**
- (c) **review the existing rates of retraining allowances (para. 2.23(e));**
- (d) **provide in the course proposals and the papers submitted to the Course and Service Development Committee information regarding the competitiveness of proposed courses, and rationalise the information requirements for the proposals of courses developed by ERB and those developed by training bodies (para. 2.23(f) and (g));**

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- (e) ensure that courses are suspended according to the ERB Guidelines (para. 2.23(h));
- (f) shorten the waiting times before the applicants can commence training (para. 2.29);
- (g) continue to monitor the performance of training courses on various KPIs and reference indicators (para. 2.45(a));

Quality assurance

- (h) ensure that on-site annual audits and self-evaluations are conducted according to the ERB Guidelines (para. 3.13(a));
- (i) ensure that class surprise inspections are conducted for training centres according to the ERB Guidelines (para. 3.13(c));
- (j) ensure that the course-end assessments are conducted by training bodies in accordance with the ERB Guidelines (para. 3.13(d));
- (k) consider whether remedial actions are necessary for those trainees who have passed the assessment but the assessment has not been conducted according to the ERB Guidelines (para. 3.13(f));
- (l) increase the number of accredited training courses (para. 3.20);

Training support services

- (m) enhance competition in the tender exercises for operation of the Service Centre and the Service Spots (para. 4.9);
- (n) improve the performance of the operators of the Smart Living Scheme (para. 4.30(a));
- (o) enhance the popularity of the Smart Baby Care Scheme and improve the performance of the operator (para. 4.30(c));

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Corporate governance and administrative issues

- (p) circulate the meeting agendas to Board/Committee members in a timely manner and set a time target for the issue of draft meeting minutes (para. 5.12(a) and (b));
- (q) enhance procedures of making declarations of interests by Board/Committee members (para. 5.12(e));
- (r) keep in view the staff turnover rate and explore feasible measures to address the issue if the high turnover rate persists (para. 5.21(a));
- (s) include non-cash and retirement benefits in the senior staff remuneration review report (para. 5.21(b));
- (t) in collaboration with the Labour and Welfare Bureau, monitor the financial condition of ERB (para. 5.29);
- (u) explore other effective measures to encourage trainees to achieve a high attendance rate and to deter them from providing false information (para. 5.39); and
- (v) consider improving the inventory check procedures and enhance the effectiveness of the checks as far as practicable (para. 5.45(b)).

Response from ERB and the Government

27. The Executive Director, ERB agrees with the audit recommendations. The Secretary for Labour and Welfare has said that the Labour and Welfare Bureau will take appropriate follow-up actions on the audit recommendations relating to the Labour and Welfare Bureau and will provide the necessary support for ERB to implement the proposed improvement measures.

CHAPTER 4

**Innovation and Technology Bureau
Administration Wing of the
Chief Secretary for Administration's Office
Office of the
Government Chief Information Officer
Efficiency Office
Commerce and Economic Development Bureau
Marine Department
Rating and Valuation Department**

**Government's efforts in implementing
electronic recordkeeping system**

**Audit Commission
Hong Kong
2 April 2020**

This audit review was carried out under a set of guidelines tabled in the Provisional Legislative Council by the Chairman of the Public Accounts Committee on 11 February 1998. The guidelines were agreed between the Public Accounts Committee and the Director of Audit and accepted by the Government of the Hong Kong Special Administrative Region.

Report No. 74 of the Director of Audit contains 8 Chapters which are available on our website at <https://www.aud.gov.hk>

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GOVERNMENT’S EFFORTS IN IMPLEMENTING ELECTRONIC RECORDKEEPING SYSTEM

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GOVERNMENT'S EFFORTS IN IMPLEMENTING ELECTRONIC RECORDKEEPING SYSTEM

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1. Records are valuable resources of the Government to support evidence-based decision-making and meet operational and regulatory requirements, and are essential for an open and accountable government. Development of information technology (IT) and the widespread use of network computers to conduct government business have resulted in an exponential growth of electronic records (an increase of 224% from 2015 to 2018), which have a vulnerable nature (e.g. fragility of storing media and ease of manipulation) and present unique challenges for bureaux/departments (B/Ds) in managing them. The implementation of electronic recordkeeping system (ERKS) is a Government initiative to pursue electronic records management. ERKS is an information/computer system to electronically collect, organise, classify and control the creation, storage, retrieval, distribution, maintenance and use, disposal and preservation of records throughout the life cycle of records.

2. In 2009, an Electronic Information Management (EIM) Steering Group comprising senior officials from the Office of the Government Chief Information Officer (OGCIO), the Administration Wing of the Chief Secretary for Administration's Office, and the Efficiency Office (EffO) was established to steer the government-wide EIM strategy and implementation. According to the EIM Strategy and Framework promulgated by OGCIO in 2011, all B/Ds should adopt an ERKS which complies with the functional requirements developed by the Government Records Service (GRS) under the Administration Wing. Up to March 2019, 11 B/Ds (with about 5,500 users) had fully or partially implemented ERKS under an ERKS pilot programme. In early 2019, GRS, EffO and OGCIO jointly completed a review which confirmed that the adoption of ERKS could bring about intangible benefits (e.g. reduce risk of inadvertent loss of records) and financial benefits (e.g. reduced need for storage space for paper files). In October 2019, the Policy Address Supplement announced the Government's decision to roll out ERKS to all government B/Ds by end-2025 to enhance efficiency in preserving and managing government records. The

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Audit Commission (Audit) has recently conducted a review to examine the Government's efforts in implementing ERKS.

Planning for the service-wide implementation of electronic recordkeeping system

3. The service-wide implementation of ERKS from mid-2021 to end-2025 will cover 75 B/Ds. They were required to submit to OGCIO their implementation plans by end-December 2019, including a timetable for adoption of ERKS. In planning the service-wide implementation of ERKS, a number of planning issues need to be taken into consideration (paras. 2.2, 2.4 and 2.13).

4. ***Submission of implementation plans by B/Ds.*** To ensure that adequate and timely support is provided to all B/Ds, OGCIO will review individual plans with the concerned B/Ds and adjust the timetable as necessary so that an average of around 15 B/Ds will implement ERKS each year (para. 2.4). Audit examination on the submission of implementation plans has revealed the following areas for improvement:

- (a) ***Delay in submission of implementation plans.*** In August 2019, the EIM Programme Management Office (which comprised members from OGCIO, GRS and EffO) under the EIM Steering Group invited all bureaux to coordinate the ERKS implementation plans for submission by end-December 2019. However, up to 6 February 2020, 17 (23%) of 75 B/Ds had not submitted their implementation plans (paras. 1.9, 2.6 and 2.7);
- (b) ***Need to review implementation plans with B/Ds.*** For the implementation plans submitted by the 58 B/Ds, Audit found that: (i) one B/D reported that full rollout by 2025 would not be achievable; and (ii) the implementation work for the B/Ds would not be spread out evenly over the period from mid-2021 to end-2025. There would be a large number of B/Ds (i.e. some 80% of the B/Ds) commencing ERKS implementation from 2022 to 2024 (around 16 B/Ds each year) and a small number of B/Ds commencing ERKS implementation in mid-2021 (2 B/Ds) or in 2025 (10 B/Ds) (para. 2.8); and

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- (c) ***Need to enhance management oversight by B/Ds to support ERKS implementation.*** ERKS implementation requires strong commitment from the top management of B/Ds. According to the EIM Strategy and Framework, an EIM coordinator at directorate level should be appointed in each B/D to liaise with the EIM Steering Group via the EIM Programme Management Office on policy issues and matters of EIM. Audit found that: (i) 10 (13%) of 75 B/Ds involved in the service-wide implementation of ERKS had appointed non-directorate level staff as their sole EIM coordinators; and (ii) 59 (70%) of 84 EIM coordinators for the 75 B/Ds had not attended in person the briefing sessions on ERKS implementation for directorate staff in July and August 2019 (paras. 2.9 and 2.10).

5. ***Issues involved in planning service-wide implementation of ERKS.*** In the course of examining the implementation work of ERKS, Audit has identified the following issues which should be taken into consideration in planning the service-wide implementation of ERKS (para. 2.13):

- (a) ***Electronic management of personnel records.*** A number of B/Ds do not have dedicated IT systems to manage their human resources processes and need to keep personnel records on papers. According to GRS, personnel records should best be handled by the Government Human Resources Management Services (GovHRMS), which is a central IT system developed by OGCIO to handle human resources management operations. In view of a number of practical issues, GRS advised B/Ds with ERKS to continue to manage their personnel records in paper files pending the full implementation of GovHRMS. However, Audit has noted that GovHRMS is only for adoption by B/Ds on a voluntary basis (i.e. no plan of full implementation in all B/Ds). There is a need to consider the way forward for the electronic management of personnel records by B/Ds (paras. 2.15 and 2.16);
- (b) ***Remote access to confidential records.*** While ERKS supports the capturing of confidential records, it does not support remote access to confidential records in light of the requirements stipulated in the Government Security Regulations (i.e. a user can only retrieve confidential records in ERKS when connected to government network in government offices). In Audit's view, supporting remote access to ERKS records at confidential level will facilitate easy retrieval of confidential records by staff when working at

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locations other than in government offices with connection to government network (e.g. working from home when warranted by special circumstances). There is a need to critically evaluate the feasibility of providing remote access to confidential records for the service-wide implementation of ERKS (paras. 2.17 and 2.18);

- (c) ***Replacement of government e-mail system.*** According to GRS guidelines, it is a mandatory requirement that ERKS must enable integration with an e-mail system to facilitate record capturing. In this connection, a new e-mail system for 24 B/Ds in the Central Government Offices and their sub-offices has been scheduled for implementation by December 2020. As the service-wide implementation of ERKS will commence in mid-2021, ERKS will be integrated with the new e-mail system for the 24 B/Ds. For the remaining departments, the implementation plan for the new e-mail system is being planned and ERKS will be integrated with the existing e-mail systems first. To avoid duplication of efforts, it is more desirable if the implementation of ERKS and the new e-mail system can be synchronised as far as practicable (paras. 2.19 and 2.21); and
- (d) ***Manual data input efforts in using ERKS.*** As the e-mail system is integrated with ERKS, most metadata of records (e.g. time and date, title, sender and recipients of an e-mail) can be automatically captured. For records other than e-mails, users are required to input most metadata of records into ERKS manually. Such manual data input efforts are prone to omissions and errors. There is a need to take measures to reduce the extent of manual efforts required to input data into ERKS, including: (i) promoting the wider use of workflow functions in ERKS, which are optional requirements of an ERKS to facilitate the automation of records management activities; and (ii) keeping in view the latest technological development in electronic records management (para. 2.22).

Implementation of electronic recordkeeping system pilot programme

System development

6. ***ERKS pilot programme.*** The ERKS pilot programme included 11 B/Ds (see para. 2), comprising five early adopters (EffO, GRS, the Communications and Creative Industries Branch (CCIB) of the Commerce and Economic Development

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Bureau (CEDB), the Drainage Services Department, and the Rating and Valuation Department (RVD)) and six next-stage adopters (the Administration Wing, the Civil Engineering and Development Department (CEDD), the Intellectual Property Department, the Architectural Services Department (ArchSD), the Marine Department (MD), and OGCIO). The five early adopters procured commercial off-the-shelf software packages with certain customisation work for ERKS implementation while the six next-stage adopters implemented ERKS by way of a common/shared service platform managed by OGCIO. Audit noted that there were delays in 8 out of the 11 projects under the ERKS pilot programme. Among the five early adopters, with implementation completed, CCIB of CEDB had the longest delay (18 months), mainly due to longer time taken for resolving technical problems. For the six next-stage adopters, as of December 2019, implementation had been completed except the one for MD, which was anticipated to be completed in June 2021. Audit selected the MD's ERKS implementation for review (paras. 3.2, 3.4 and 3.10).

7. ***Delay in implementation of ERKS common base system and system deployment for MD.*** In November 2015, OGCIO awarded a contract at a total cost of \$36.3 million for implementing the ERKS base system and system deployment for MD (and also ArchSD) to a contractor (the Contractor). The common base system was planned to be ready for deployment to MD in May 2016. In order to speed up progress, in June 2017, OGCIO approved the Contractor's proposal of dividing the common base system functions into core functions and remaining functions. In September 2017, the common base system was deployed to MD for testing when the core functions of the system were ready. In August 2019, the whole common base system was completed when all the core and remaining functions were ready for use. For MD's system deployment, it comprised 4 batches involving different user sections/units. As of February 2020, only Batch 1 had been implemented. As compared with the target completion date of January 2018, Batch 1 system deployment was only completed in August 2019 with a delay of 19 months. As of December 2019, the completion of the whole system deployment was planned to be completed in June 2021 (paras. 3.6 and 3.10 to 3.12).

8. ***Lessons to be learnt to improve future service-wide ERKS implementation.*** Audit examination revealed that the main reason for delay in implementing the common base system and the subsequent system deployment to MD was the unsatisfactory performance of the Contractor. According to MD, a premature base system was deployed for testing by MD, as evidenced by the substantial number of errors identified in the user acceptance test and the large number of errors which took a long time to fix. According to OGCIO, it had closely monitored the Contractor's

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progress in developing the system and rectifying identified issues. From September 2016 to June 2017, OGCIO issued seven warning letters to the Contractor on its unsatisfactory performance including severe schedule slippage, loose management and inadequate staff resources (para. 3.13). Audit examination has revealed the following areas for improvement:

- (a) ***Need to seek legal advice about imposing liquidated damages.*** According to the contract provision, liquidated damages can only be imposed if the Contractor fails to supply and deliver the System in Ready for Use condition (i.e. put into live-run) by the completion date. Audit noted that when OGCIO endorsed the extension of the target completion date of the whole system to June 2021, OGCIO had not imposed liquidated damages on the Contractor. While having sought the Department of Justice's advice on the termination of contract and the consequence of accepting a revised implementation plan, OGCIO (as the contract administrator) did not seek specific legal advice about imposing liquidated damages (\$2 million) before approving the extension of completion date, despite the unsatisfactory performance of the Contractor (para. 3.15);
- (b) ***Inadequacies in monitoring project progress.*** There were inadequacies in project monitoring by OGCIO and MD: (i) OGCIO has set up a two-tier project governance structure comprising a Project Steering Committee (PSC) and a Project Team to oversee the common base system development of ArchSD and MD. However, only two OGCIO PSC meetings (in December 2015 and June 2016) had been held. From July 2016 to August 2019, no PSC meetings had been conducted to provide timely strategic guidance on project implementation issues including the termination of contract or imposition of liquidated damages; and (ii) MD adopted a three-tier project governance structure, comprising a PSC, a Project Assurance Team (PAT) and a Project Team, to oversee the implementation of system deployment of the ERKS Project. Since January 2017, PSC and PAT had only held one meeting in August 2019 for endorsing the revised rollout date of Batch 1 system deployment (paras. 3.16 and 3.17); and
- (c) ***Long time taken in fixing errors identified in critical test incidents reports (TIRs).*** When errors were found in the testing of the common base system and system deployment, they were recorded in TIRs for subsequent rectification by the Contractor as a quality assurance. For the user acceptance test and training stage of Batch 1 of system deployment from

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September 2017 to October 2019, there were a total of 765 TIRs identified by MD. To expedite the rectification of TIRs, MD and the Contractor agreed to tackle critical TIRs (i.e. urgent and high-priority cases) first. Audit analysis revealed that among the 479 TIRs (111 (urgent) + 368 (high priority)) having been classified as urgent/high priority, the Contractor took 92.4 days (ranging from 0.6 to 518.5 days), on average, to fix the errors identified in the TIRs. Furthermore, out of the 765 TIRs, 246 (32%) failed the required testing one or more times, ranging from 1 to 14 times. As of February 2020:

- (i) the total number of outstanding TIRs for the common base system was 191, including 7 urgent/high-priority cases and 184 normal/low-priority cases; and
- (ii) the total number of outstanding TIRs for MD's system deployment was 78, including 2 urgent/high-priority cases and 76 normal/low-priority cases (para. 3.13(b)).

9. ***Inadequacies in preparing and submitting Post Implementation Departmental Returns (PIDRs).*** B/Ds are required to submit PIDRs to OGCI0 six months after the projects are in operation. As of January 2020, PIDRs of 10 completed projects were due for submission. Of the 10 PIDRs, despite the issue of monthly reminders by OGCI0, 8 were submitted late or still outstanding. The delay ranged from 1 to 23 months. Moreover, Audit found that all B/Ds reported in PIDRs that savings in paper/printing costs had been or would be realised. However, as the time needed to dispense with the print-and-file practice (see para. 10) varied, some B/Ds had not yet dispensed with the print-and-file practice at the time of submitting PIDRs (paras. 3.9, 3.18 and 3.19).

10. ***Long time taken in dispensing with print-and-file practice.*** B/Ds which have fully implemented a proper ERKS should seek the prior approval of GRS before dispensing with the practice of print-and-file of e-mail records as required by General Circular No. 2/2009. As of December 2019, 4 of the 11 B/Ds under the ERKS pilot programme had not yet dispensed with the print-and-file practice. While ArchSD and MD only launched ERKS recently, CCIB of CEDB and RVD rolled out ERKS in 2014 and have been adopting a parallel run of ERKS and print-and-file practice for over five years. The prolonged parallel run created additional workload to users in managing records and resulted in omission in filing. Audit found that the prolonged

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parallel run was mainly attributable to technical problems encountered after the system rollout. The two B/Ds should work closely with GRS to dispense with the print-and-file practice (paras. 1.7, 3.20, 3.22 and 3.25).

System operation and migration to central electronic recordkeeping system

11. Audit selected four B/Ds under the ERKS pilot programme (GRS, CCIB of CEDB, OGCIO and CEDD) for examining the records management functionalities and practices in ERKS environment and found the following areas for improvement (para. 3.37):

- (a) ***Failure to provide Audit with access rights to ERKS.*** Audit was able to obtain read-only access rights to ERKS in all selected B/Ds except OGCIO because such requirement (i.e. creating accounts with read-only access rights for non-OGCIO users) had not been taken into account when designing the user profiles of OGCIO's ERKS. In Audit's view, the design of user profiles of OGCIO's ERKS does not meet audit requirements regarding obtaining reliable audit evidence efficiently through the system (para. 3.38(a));
- (b) ***Users with low usage.*** Low usage of some users was generally observed in all four B/Ds. For example, as of January 2020, 306 (30%) of 1,025 ERKS users in OGCIO were found not using ERKS for over one year (para. 3.38(b));
- (c) ***No guidelines on time limit for capturing records into ERKS.*** All four B/Ds did not specify in their departmental guidelines the time limit to capture a record into ERKS. Audit analysis of the filing dates of e-mails in ERKS revealed that some e-mails were only captured into ERKS over three months after the sent/received date. For example, in 2019, 7,747 (22%) of 35,567 e-mail records in OGCIO and 3,792 (17%) of 22,700 e-mail records in CCIB of CEDB were captured over three months after the sent/received date (para. 3.38(c)); and
- (d) ***Need to consider migration to central ERKS in due course.*** In the service-wide implementation, to achieve economies of scale on software licences, and implementation and support costs, a single ERKS software solution will be adopted to develop the central ERKS for deployment. The

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annual recurrent cost for each ERKS user is estimated to be about \$1,500. In contrast, the annual operating expenditure per ERKS user for the pilot projects in 2018-19 ranged from \$1,667 to \$35,714. B/Ds under the ERKS pilot programme should keep in view the merits of migrating to the central ERKS when their ERKSs are due for replacement in future (para. 3.45).

Archiving of electronic records

12. According to GRS, long-term preservation of electronic records is necessary to ensure that electronic records are authentic, complete, accessible, identifiable, understandable and usable for as long as they are required to serve legal, regulatory, business and archival requirements. To achieve that, it is necessary to formulate government-wide policy and strategies for preserving electronic records over time (para. 4.3). Audit found the following areas for improvement:

- (a) ***Slow progress in conducting comprehensive study.*** In January 2013, GRS and OGCI0 completed a preliminary study to, among others, define the scope of a comprehensive study on long-term preservation of electronic records. According to the original plan submitted to the EIM Steering Group in 2011, the comprehensive study was scheduled for completion in December 2014. However, as of October 2019, the revised target completion date was May 2021, representing a delay of about 6 years. Given that 11 B/Ds have implemented ERKS since 2010, the need for transfer of electronic records with archival value from B/Ds to GRS for permanent retention will arise in the near future. There is a need to step up efforts to avoid further delay (paras. 4.4 and 4.5);
- (b) ***Need to ascertain progress made by B/Ds in improving preservation of electronic records.*** In 2012, GRS and OGCI0 jointly conducted a survey (covering 74 B/Ds and offices) to gauge the need for preservation of electronic records in B/Ds and assess the effectiveness of current preservation measures adopted by B/Ds. The survey found that: (i) only 27 (36%) B/Ds and offices had conducted file format migration for their electronic records in the past seven years; and (ii) of 49 B/Ds and offices that had managed and/or stored electronic records in offline storage media, only 15 (31%) of them had conducted media renewal and/or media migration. While GRS promulgated a guideline in July 2013 setting out good practices and measures to preserve electronic records for reference by B/Ds, it did not regularly ascertain the progress made by B/Ds in improving

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their measures and practices in preserving electronic records (paras. 4.13 to 4.15); and

- (c) ***Need to formulate long-term strategy for web archiving and promulgate relevant guidelines.*** All B/Ds have set up their own websites for dissemination of information. Senior government officials and B/Ds are also using social media to disseminate information and interact with members of the public. However, Audit noted that there was a lack of guidelines on management and archiving of records in government websites or social media platforms. Audit research has revealed that: (i) web archiving initiatives have been implemented in some overseas jurisdictions for quite some time (e.g. the United Kingdom in 2003 and Singapore in 2006); and (ii) the related archived government websites and/or social media accounts are usually accessible by the public through dedicated websites. Up to February 2020, the Government had yet to formulate a long-term strategy for web archiving and did not have a centralised web archive of all government websites and/or official social media accounts, similar to the ones in overseas jurisdictions (paras. 4.16 to 4.19).

Audit recommendations

13. **Audit recommendations are made in the respective sections of this Audit Report. Only the key ones are highlighted in this Executive Summary. Audit has *recommended* that the Government Chief Information Officer, the Director of Administration and the Commissioner for Efficiency should:**

- (a) **take further actions to follow up with B/Ds on outstanding ERKS implementation plans (para. 2.11(a));**
- (b) **review B/Ds' ERKS implementation plans to ensure that the workload over the period from mid-2021 to end-2025 is evenly spread out as far as practicable, and liaise with and provide necessary support to those which have indicated difficulties in meeting the target of service-wide implementation of ERKS by end-2025 (para. 2.11(b));**
- (c) **remind B/Ds to provide stronger management oversight on the service-wide implementation of ERKS (para. 2.11(c));**

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- (d) consider the way forward for the electronic management of personnel records by B/Ds (para. 2.23(a));
 - (e) in consultation with the Security Bureau, critically evaluate the feasibility of providing remote access to confidential records in ERKS (para. 2.23(b));
 - (f) in implementing ERKS in the remaining B/Ds in future, take into account the implementation plan of the new e-mail system as far as practicable (para. 2.23(c));
 - (g) take measures to reduce the extent of manual data input efforts required to capture records into ERKS (para. 2.23(d));
 - (h) set up a mechanism to measure B/Ds' savings in paper/printing costs upon the cessation of the print-and-file practice (para. 3.28(a)); and
 - (i) remind the 11 B/Ds under the ERKS pilot programme to keep in view the merits of migrating to the central ERKS when their ERKSs are due for replacement in future (para. 3.46).
14. Regarding the system development of ERKS, Audit has *recommended* that the Government Chief Information Officer should:
- (a) draw lessons from the implementation of common base system to improve the monitoring of contractors in the service-wide implementation of ERKS, including:
 - (i) holding regular PSC meetings to provide strategic direction on project implementation (para. 3.26(a)(i)); and
 - (ii) in granting extension of time of target completion dates in ERKS projects for the remaining B/Ds in future, seeking the Department of Justice's advice on whether liquidated damages should be imposed, having regard to the contractor's performance and the loss to the Government arising from the project delay (para. 3.26(a)(ii));

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- (b) closely monitor the Contractor's progress to ensure that ERKS for MD can be completed by the revised completion date of June 2021 and the errors identified are rectified as soon as possible (para. 3.26(b));
 - (c) take effective measures to ensure PIDRs of ERKS projects are submitted in a timely manner (para. 3.26(c)); and
 - (d) remind B/Ds to fully take into account audit requirements in designing their ERKSs in the service-wide implementation of ERKS (para. 3.39(a)).
15. Regarding the system operation of ERKS and archiving of electronic records, Audit has *recommended* that the Director of Administration should:
- (a) remind B/Ds with ERKS to identify users with low usage and investigate the reasons for taking appropriate action, and formulate guidelines on the time limit for filing records into ERKS (para. 3.40);
 - (b) step up efforts to complete the comprehensive study on long-term preservation of electronic records (para. 4.20(a));
 - (c) consider setting up a mechanism to regularly monitor B/Ds' practices in preserving electronic records (para. 4.20(b)); and
 - (d) formulate a long-term strategy for web archiving in the Government and promulgate guidelines on management of electronic records in web environment (para. 4.20(c)).
16. Audit has also *recommended* that:
- (a) the Director of Marine should strengthen the monitoring of ERKS project progress and hold regular PSC and PAT meetings to oversee the Contractor's performance (para. 3.27(a)); and

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- (b) **the Secretary for Commerce and Economic Development and the Commissioner of Rating and Valuation should work closely with GRS to dispense with the print-and-file practice (paras. 3.29 and 3.30).**

Response from the Government

- 17. The Government generally agrees with the audit recommendations.

PART 1: INTRODUCTION

1.1 This PART describes the background to the audit and outlines the audit objectives and scope.

Background

1.2 ***Government records management.*** Records (Note 1) are valuable resources of the Government to support evidence-based decision-making and meet operational and regulatory requirements, and are essential for an open and accountable government. Good records management enhances operational efficiency and effectiveness while minimising costs. Records management is therefore an important function of government bureaux/departments (B/Ds). The Government Records Service (GRS) under the Administration Wing of the Chief Secretary for Administration's Office is responsible for formulating and implementing policies and plans for records management and archives administration (see Appendix A for an extract of the organisation chart of GRS).

1.3 ***Electronic government records.*** Development of information technology (IT) and the widespread use of network computers to conduct government business have resulted in the exponential growth of records being created digitally, e.g. e-mails, spreadsheets and electronic forms. According to a government-wide survey conducted by GRS in 2019, the quantity of electronic records kept by B/Ds increased by 224% from 3,707 terabytes (TB — Note 2) as of December 2015 to 12,008 TB as of December 2018.

1.4 ***Challenges in managing electronic records.*** According to GRS, electronic records have a vulnerable nature and present unique challenges for B/Ds in managing them because of the following:

Note 1: *According to General Circular No. 2/2009 "Mandatory Records Management Requirements" issued by the Director of Administration in April 2009, a record is any recorded information or data in any physical format or media created or received by an organisation during its course of official business and kept as evidence of policies, decisions, procedures, functions, activities and transactions.*

Note 2: *1 TB is equal to 1,024 gigabytes while 1 gigabyte is equal to 1,024 megabytes.*

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- (a) the fragility of media (e.g. magnetic tapes, optical discs and USB drives) upon which they are recorded;
- (b) the dependency on technology to allow access and use of electronic records which cannot be read directly without the aid of computer software and hardware;
- (c) the ease of manipulation (i.e. updated, deleted, and altered intentionally or inadvertently) without being discovered; and
- (d) the absence of self-evident and ready contextual information (e.g. who created it, when, to whom was it sent, and why) to enable that electronic records are understandable and usable over time.

Having regard to the above considerations and the need for proper control over electronic records, new records management policy, strategies, practices, procedures and tools benchmarked against international records management standards and best practices are required to support efficient and effective management of electronic and non-electronic records under such an environment in B/Ds.

1.5 ***Electronic records management (ERM).*** According to GRS, ERM refers to the application of records management principles to manage records by electronic systems, notably an electronic recordkeeping system (ERKS — see para. 1.6). According to GRS, ERM has been widely adopted and promoted in the public sectors of other jurisdictions such as Australia, Canada, the European Union, New Zealand, Singapore, the United Kingdom and the United States. International professional bodies, notably the International Council on Archives, have also devoted continuous efforts to develop standards, best practices and solutions for ERM. With the growing need for proper management of electronic and non-electronic records in a consistent and integrated manner, it is the Government's records management policy to pursue ERM in B/Ds.

1.6 ***ERKS.*** An ERKS is an information/computer system with the necessary records management capabilities designed to electronically collect, organise, classify and control the creation, storage, retrieval, distribution, maintenance and use, disposal and preservation of records throughout the life cycle of records. According to GRS, the implementation of ERKS in B/Ds is likely to bring the following tangible and intangible benefits:

- (a) better governance and greater accountability (e.g. supporting evidence-based and faster decision-making by providing reliable and authentic electronic records for the evaluation of past actions and decisions);
- (b) improved organisational compliance with legal and regulatory requirements;
- (c) enhanced operational efficiency and improved public services;
- (d) more efficient and effective access to and sharing of information and knowledge;
- (e) reduced costs for managing and storing records (e.g. by obviating the need to “print-and-file” (see para. 1.7) electronic records for management and storage);
- (f) strengthened security and access control to government records; and
- (g) better preservation of corporate and community memory.

1.7 ***Print-and-file requirement.*** According to General Circular No. 2/2009 issued in April 2009 (see Note 1 to para. 1.2), since the use of ERKS for keeping electronic records was being studied at that time (see para. 1.8), unless otherwise agreed by GRS, e-mail correspondence should be “printed-and-filed” for record purposes, i.e. subject officers should arrange to print an e-mail record directly from the e-mail software for filing in an appropriate paper-based file similar to other records.

Implementation of ERM and ERKS

1.8 ***Pilot project before 2009.*** The subject of ERM was initiated as early as 2001 when an ERM Working Group was established to develop policies, strategies, and standards for the effective management of electronic records, including studying the feasibility and implications of developing a properly designed ERKS. The Working Group was chaired by a Deputy Director of Administration, with members

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from GRS, the then Efficiency Unit (now the Efficiency Office (EffO — Note 3)), and the Office of the Government Chief Information Officer (OGCIO). After implementing a pilot project from 2003 to 2008 (Note 4), GRS, EffO and OGCIO in 2009 completed a post-implementation review of the pilot project and identified the need for further work to address issues relating to the implementation of an ERKS in the Government (Note 5).

1.9 Government's Electronic Information Management (EIM) Programme. EIM (Note 6) was one of the key initiatives to be pursued under the 2008 update of Digital 21 Strategy (Note 7). In 2009, an EIM Steering Group (Note 8), which took over the work of the ERM Working Group (see para. 1.8), was established to steer the government-wide strategy and implementation of an EIM Programme. A consultancy study was conducted in 2010 to map out the future directions and implementation plan of government-wide EIM initiative, including ERKS. On the

Note 3: *The then Efficiency Unit under the Chief Secretary for Administration's Office was transferred to the Innovation and Technology Bureau and renamed as EffO on 1 April 2018.*

Note 4: *The pilot project comprised two phases, with Phase 1 covering a few offices in five departments (namely GRS, OGCIO, the Fire Services Department, the Trade and Industry Department, and the Transport Department) to test two ERKSs for one month in 2003, and Phase 2 covering a one-year pilot run in some offices of OGCIO and the Transport Department from 2007 to 2008.*

Note 5: *These issues comprised: (a) development of records management standards; (b) refinement of functional requirements; (c) management of confidential records in ERKS; and (d) preservation of electronic records. While issues (a) to (c) were fully addressed subsequently, there is still outstanding work relating to issue (d), which is discussed in PART 4 of this Audit Report.*

Note 6: *EIM refers to the management of information throughout its life cycle by electronic means. EIM aims to facilitate the right people to process the right information at the right time by the wider use of IT, and covers three domain areas, namely content management, records management and knowledge management.*

Note 7: *The Government's Digital 21 Strategy was the blueprint for the development of information and communications technology for Hong Kong. Since its first release in 1998, the Strategy was regularly updated to take into account technological advancements and the evolving needs of the community. It was last updated in 2014.*

Note 8: *The EIM Steering Group was convened by the Government Chief Information Officer with members including the Director of Administration, the Government Records Service Director, and the Commissioner for Efficiency.*

basis of the study which was endorsed by the EIM Steering Group, OGCIO issued a circular in May 2011 to promulgate the EIM Strategy and Framework. The Circular (i.e. “OGCIO Circular No. 1/2011”) requires, among others, that:

- (a) B/Ds should follow the EIM Framework (Note 9) set out in the Circular to develop EIM Strategies before actual implementation of EIM projects;
- (b) B/Ds should take forward ERM as an integral part of the EIM initiative and adopt an ERKS which complies with the functional requirements developed by GRS to drive ERM in the Government; and
- (c) EIM components, such as ERKS, should be provided as common shared services for B/Ds as options to reduce implementation costs, time and risks.

An EIM governance structure is established to oversee and execute the EIM Programme. The central EIM governance body is headed by the EIM Steering Group, which is supported by an EIM Working Group and an EIM Programme Management Office. Both the Working Group and the Programme Management Office consist of members from GRS, EffO and OGCIO. While the EIM Working Group is tasked to oversee the implementation progress of EIM Programme, the EIM Programme Management Office is responsible for executing programme tasks, providing project management support, and overseeing and monitoring the programme progress. The central EIM governance body maintains continual communication with B/Ds via the EIM coordinators on EIM matters. According to OGCIO, to steer and monitor the overall implementation of the EIM Programme, an EIM coordinator at directorate level should be appointed in each B/D. The governance structure of the Government’s EIM Programme is shown in Appendix B.

1.10 ***Development of ERM standards and guidelines.*** In taking forward ERM, GRS has developed and issued the following standards and guidelines to support B/Ds:

- (a) in conjunction with the promulgation of the Government’s EIM Strategy and Framework by OGCIO:

Note 9: *The EIM Framework consists of five capability areas (i.e. Strategy, Technology, People, Process and Governance) that B/Ds need to consider when developing their EIM strategies.*

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- (i) in May 2011 (subsequently updated in May 2012 and September 2016) a publication entitled “Functional Requirements of an Electronic Recordkeeping System” which specifies a set of functional requirements of an ERKS for compliance by B/Ds in designing, developing and implementing an ERKS; and
- (ii) in May 2012 (subsequently updated in September 2016) another publication entitled “Recordkeeping Metadata Standard for the Government of the Hong Kong Special Administrative Region” which specifies a set of recordkeeping metadata (Note 10) to be created, captured, used, managed and maintained in an ERKS;
- (b) four sets of ERKS implementation guidelines from 2013 to 2015 to assist B/Ds to face the challenges in implementing an ERKS, three of which were subsequently updated in 2016 and 2017. The guidelines provide guidance to B/Ds in initiating, planning and implementing an ERKS;
- (c) in August 2011 and updated in April 2017 a guidance document entitled “Disposal of Original Records (for records that have been digitised and stored in a digital form)” for compliance by B/Ds to assess the potential risks of early destruction of original records;
- (d) in July 2013 a publication entitled “A Handbook on Preservation of Electronic Records” to enhance B/Ds’ awareness of proper preservation of electronic records, and to promote best practices in this regard to B/Ds; and
- (e) in October 2001 and updated in December 2017 the “Guideline on the Management of Electronic Messages” (previously known as “Guideline on the Management of Electronic Mail”) to help B/Ds identify, create, file and manage electronic message records so that adequate and accurate evidence of official business and activities will be retained for operational, policy, legal, financial and archival purposes.

Note 10: *Recordkeeping metadata describes the content, context and structure of records and their management through time, e.g. ‘title’, ‘date received’ and ‘recipient name’.*

1.11 ***ERKS pilot programme.*** Since 2010, an ERKS pilot programme has been implemented in two stages, as follows:

- (a) ***Five early adopters.*** EffO implemented an ERKS as part of a comprehensive EIM system in 2010. In 2014 and 2015, another four early adopters including GRS, the former Communications and Technology Branch (renamed as Communications and Creative Industries Branch (CCIB) in November 2015) of the Commerce and Economic Development Bureau (CEDB), the Drainage Services Department (DSD), and the Rating and Valuation Department (RVD) had also implemented ERKSs. These early adopters used a package-plus-customisation approach to implement their ERKSs. They used different brands of commercial off-the-shelf ERKS software packages, with necessary customisation to meet records management requirements promulgated by GRS, as well as B/Ds' business requirements; and
- (b) ***Six next-stage adopters.*** In October 2014, the E-Government Steering Committee (Note 11) endorsed a programme of implementing ERKS in a maximum of six B/Ds as the next stage development. Under this programme, three ERKS base systems were developed by OGCIO using three different ERKS solutions and were rolled out (fully or partially from 2016 to 2019) in five departments (i.e. the Architectural Services Department (ArchSD), the Civil Engineering and Development Department (CEDD), the Intellectual Property Department (IPD), the Marine Department (MD) and OGCIO — Note 12). Since GRS (a unit under the Administration Wing — see para. 1.2) is an early adopter of ERKS, the Administration Wing has also shared the ERKS infrastructure of GRS since

Note 11: *The E-Government Steering Committee was formed in 2004 to approve the strategic direction of the e-government programme, set targets for outcome, benefits and utilisation of such projects, and, if necessary, resolve differences among B/Ds or between OGCIO and B/Ds. The Committee was chaired by the Financial Secretary with members comprising representatives of CEDB, the Financial Services and the Treasury Bureau, OGCIO and EffO.*

Note 12: *The three ERKS base systems are respectively deployed to: (a) OGCIO and IPD; (b) CEDD; and (c) ArchSD and MD.*

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2016. All these ERKSs are hosted on the Government Cloud Infrastructure (GovCloud — Note 13).

As of March 2019, the 11 B/Ds (Note 14) with some 5,500 users were using ERKS. The total estimated capital expenditure for developing and implementing ERKSs in the 11 B/Ds was around \$110 million. Individual projects were mainly funded through a block allocation under the Capital Works Reserve Fund (CWRP) Head 710 Computerisation Subhead A007GX (Block Allocation) — New administrative computer systems (Note 15).

1.12 ***The Ombudsman's direct investigation report.*** In March 2014, the Office of the Ombudsman published a direct investigation report on public records management in Hong Kong. In connection with the management of electronic records, the Ombudsman recommended that the Government should:

- (a) map out as soon as possible a clear and comprehensive implementation plan of ERKS with timelines for all parties concerned; and
- (b) conduct studies to gauge ERM situations in B/Ds, with a view to identifying problems in the different practices among B/Ds and plugging existing loopholes.

1.13 ***Service-wide implementation of ERKS.*** In early 2019, GRS, EffO and OGCIO jointly completed a review of the implementation of ERKS in four B/Ds (viz. the Administration Wing, CEDD, IPD and OGCIO). According to a summary report

Note 13: *GovCloud, launched in December 2013, is used for hosting e-government services for use by B/Ds, such as EIM, and aims at a more cost-effective delivery of common e-government infrastructure.*

Note 14: *According to OGCIO, in the context of the ERKS pilot programme, EffO, GRS and the Administration Wing are regarded as separate B/Ds.*

Note 15: *CWRP was set up for financing the Public Works Programme, acquisition of land, capital subventions and major systems and equipment items. Projects of administrative computer systems, consultancies for feasibility studies and systems development that cost between \$200,001 and \$10 million each are funded by the block allocation. The Government Chief Information Officer can authorise expenditure under the block allocation under delegated authority.*

submitted to the Steering Committee on Innovation and Technology (Note 16) in March 2019, the review confirmed that the adoption of ERKS could bring about a number of intangible benefits (e.g. reducing the risk of inadvertent loss or unauthorised destruction of records), as well as financial benefits (e.g. reduced need for storage space for paper files). Based on the review findings, it was considered imperative and timely to roll out ERKS to all B/Ds on a mandatory basis (Note 17). After deliberations within the Government, the Policy Address Supplement published in October 2019 announced the Government's decision to roll out ERKS to all government B/Ds by end-2025 to enhance efficiency in preserving and managing government records. In February 2020, the Innovation and Technology Bureau and OGCIO submitted a funding proposal on the service-wide implementation of ERKS to the Panel on Information Technology and Broadcasting of the Legislative Council for seeking Members' support. The funding proposal involved a non-recurrent expenditure of \$1,234 million and an annual recurrent cost of \$270 million (Note 18).

Audit review

1.14 In 2011, the Audit Commission (Audit) completed a review of "Records management work of the Government Records Service", the results of which were reported in Chapter 10 of the Director of Audit's Report No. 57 of October 2011. In October 2019, Audit commenced a review to examine the Government's efforts in implementing ERKS, focusing on:

- (a) planning for the service-wide implementation of ERKS (PART 2);

Note 16: *The Steering Committee on Innovation and Technology is chaired by the Chief Executive of the Hong Kong Special Administrative Region to examine and steer measures under the eight areas of innovation and technology development as well as smart city projects.*

Note 17: *During the review, a questionnaire survey of over 900 ERKS users in the four B/Ds had been conducted. The survey results indicated that over 60% of respondents considered that ERKS could better protect government records. Main concerns of the users included unstable system performance during the initial stage, slow response in handling records with large file size, batch filing of multiple records not possible and limited parameters for search functions, etc.*

Note 18: *The non-recurrent expenditure covers the costs for hardware, software, cloud service, system implementation, contract staff and training. The new system is estimated to incur an annual recurrent cost of \$270 million upon its complete rollout in 2025-26, covering the costs for hardware and software maintenance, cloud service and system maintenance.*

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- (b) implementation of ERKS pilot programme (PART 3); and
- (c) archiving of electronic records (PART 4).

Audit has found room for improvement in the above areas and has made a number of recommendations to address the issues.

Acknowledgement

1.15 Audit would like to acknowledge with gratitude the full cooperation of the staff of the Innovation and Technology Bureau, Administration Wing of the Chief Secretary for Administration's Office, OGCI, EffO, CEDB, CEDD, MD and RVD during the course of the audit review.

PART 2: PLANNING FOR THE SERVICE-WIDE IMPLEMENTATION OF ELECTRONIC RECORDKEEPING SYSTEM

2.1 This PART examines the planning for the service-wide implementation of ERKS, focusing on:

- (a) submission of implementation plans by B/Ds (paras. 2.6 to 2.12); and
- (b) other planning issues (paras. 2.13 to 2.26).

Preparation for the service-wide implementation of ERKS

2.2 ***Overall implementation plan.*** The service-wide implementation of ERKS in all B/Ds by end-2025 was discussed and endorsed by high-level committees within the Government in 2019. Excluding 7 B/Ds (Note 19) which have fully implemented ERKS, the service-wide implementation within the Government will cover 75 B/Ds (including the Hong Kong Housing Authority and the five trading fund departments). To achieve economies of scale on software licences, and implementation and support costs, a single ERKS software solution will be adopted to develop a central ERKS as a “common service platform” for deployment to B/Ds. The Government has planned to obtain funding approval of the Finance Committee of the Legislative Council in mid-2020. After obtaining funding approval, OGCI O will conduct a tender exercise to procure the central ERKS targeted to be ready by mid-2021 for deployment to B/Ds from mid-2021 to end-2025.

2.3 ***B/Ds’ preparatory work.*** In adopting ERKS, B/Ds are required to manage a systemic change not only in learning to use the new IT system but also the work culture and practices among record users at all levels to migrate from a paper-based recordkeeping system to an electronic one. In the process, B/Ds will need to perform the following additional tasks:

Note 19: *The 7 B/Ds are EffO, GRS, DSD, the Administration Wing, IPD, OGCI O and CEDD.*

Planning for the service-wide implementation of electronic recordkeeping system

- (a) reviewing and refining departmental records classification scheme (i.e. the file plan) to enhance record sharing and reduce filing duplication;
- (b) defining user roles/profiles and access control for using ERKS;
- (c) developing departmental records management practices and guidelines governing the use of ERKS;
- (d) integrating ERKS with the departmental e-mail system and deploying ERKS client packages to B/Ds' client workstations;
- (e) converting existing paper records into electronic form if necessary depending on future reference value and business needs;
- (f) organising change management activities and staff training; and
- (g) testing the system before live-run.

According to GRS, tasks (a) and (b) are essential steps in the preparation for the smooth operation of ERKS and should be completed before commencing the implementation of the new system. Based on the experience of the pilot ERKS programme, a small or medium-sized B/D may take about one year while a large-sized B/D may take a longer period of two to three years to complete the two tasks (Note 20).

2.4 ***Formulation of B/Ds' implementation plans.*** Taking into account the tasks in paragraph 2.3(a) to (g), all bureaux should submit to OGCI0 the ERKS implementation plans of the departments under their purview by end-December 2019. The implementation plan should include a timetable for adoption of ERKS, having regard to the following principles:

- (a) the implementation work from mid-2021 should best be evened out over 4.5 years up to end-2025;

Note 20: *B/Ds with not more than 500, more than 500 to 2,000 and more than 2,000 ERKS users are classified as "small-sized", "medium-sized" and "large-sized" respectively.*

Planning for the service-wide implementation of electronic recordkeeping system

- (b) bureaux should implement ERKS early to set an example for the departments under their purview;
- (c) B/Ds with mostly born-digital records (e.g. e-mails) should implement ERKS as early as possible to reap the benefits of ERKS;
- (d) B/Ds should take into consideration the lead time required for tasks (a) and (b) mentioned in paragraph 2.3; and
- (e) large-sized B/Ds should start the preparatory work as early as possible and the rollout should not be later than 2023 as the rollout may have to be conducted in batches considering the large number of users.

To ensure that adequate and timely support is provided to all B/Ds, OGCIO will review individual plans with the concerned B/Ds and adjust the timetable as necessary so that an average of around 15 B/Ds will implement ERKS each year. Based on the implementation plans, OGCIO, GRS and EffO will arrange working meetings with individual B/Ds to draw up their detailed plans including the system works required and staff training.

2.5 Support measures to B/Ds. OGCIO is working in conjunction with GRS and EffO in providing technical and administrative support to B/Ds to facilitate the service-wide implementation of ERKS. From July to December 2019, OGCIO, GRS and EffO held a number of sessions to brief B/Ds on the preparatory work required for implementing ERKS. OGCIO is responsible for the overall project management of ERKS including the formulation of implementation plan and rollout strategy. It has also been providing technical support to B/Ds on implementation arrangements. EffO has been supporting the implementation of ERKS on “change management” through providing a suite of tools (methodologies, templates and sample plans for stakeholder engagement and communication), and bringing B/Ds together for knowledge and experience sharing in the form of a community of practice. GRS has been supporting the implementation of ERKS on “records management” through providing training and guidelines on how to conduct review of records classification scheme in ERKS environment, and how to develop adequate and appropriate records management practices and procedures governing the use of ERKS in B/Ds.

Submission of implementation plans by bureaux and departments

Delay in submission of implementation plans

2.6 ***Implementation plans.*** In August 2019, the EIM Programme Management Office invited all bureaux to coordinate the ERKS implementation plans of all 75 B/Ds for submission by end-December 2019. The implementation plan of a B/D should include:

- (a) contact person of the B/D;
- (b) number of ERKS users;
- (c) target commencement date to review records classification scheme (see para. 2.3(a)); and
- (d) target number of ERKS users to be rolled out in each quarter.

2.7 ***Implementation plans from B/Ds not submitted on time.*** Audit examined the records of the EIM Programme Management Office and found that, of the 75 B/Ds, 17 (23%) had not yet submitted their implementation plans up to 6 February 2020. While OGCIO had followed up with the concerned bureaux (e.g. by issuing reminders) from November 2019 to early February 2020, the EIM Programme Management Office needs to take further actions to follow up with the 17 B/Ds on the outstanding implementation plans.

Need to review implementation plans with B/Ds

2.8 Audit examination on the implementation plans submitted by the 58 B/Ds revealed the following issues:

- (a) ***Full rollout by end-2025 not achievable by one B/D.*** According to the initial timetable under the implementation plan submitted by one B/D to OGCIO, the ERKS rollout would commence in a phased approach starting from the second quarter of 2025, with the rollout to the rest of ERKS users commencing from 2026 onwards; and

- (b) ***Implementation work not evenly spread out.*** Based on the implementation plans submitted by 57 B/Ds (Note 21), their commencement of implementation work would not be spread out evenly over the period from mid-2021 to end-2025. There would be a large number of B/Ds (i.e. some 80% of B/Ds) commencing ERKS implementation from 2022 to 2024 (around 16 B/Ds each year) and a small number of B/Ds commencing ERKS implementation in earlier or later periods, i.e. 2 B/Ds in mid-2021 and 10 B/Ds in 2025.

Upon receipt of the implementation plans from the remaining 17 B/Ds, the EIM Programme Management Office should: (i) review B/Ds' implementation plans to ensure that the workload is evenly spread out over the period from mid-2021 to end-2025 as far as practicable in accordance with the original implementation strategy (see para. 2.4); and (ii) liaise with and provide necessary support to those which have indicated difficulties in meeting the target of service-wide implementation of ERKS by end-2025.

***Need to enhance management oversight by B/Ds
to support ERKS implementation***

2.9 ***Engagement of senior management of B/Ds.*** ERKS implementation requires strong commitment from the top management of B/Ds. In this connection, OGCI0 disseminated information about the service-wide implementation of ERKS through the following channels:

- (a) circulation of a paper to all bureaux for comments before submission to a high-level meeting within the Government in July 2019;
- (b) a joint presentation by the Government Chief Information Officer and the Director of Administration on the implementation roadmap of ERKS in the Government, in the Heads of Departments' meeting in August 2019; and

Note 21: *One B/D reported that its ERKS would be implemented under a departmental IT system project, the funding for which was approved by the Legislative Council in May 2018. According to the concerned B/D, the contractor would design ERKS in accordance with the technical and functional requirements developed by GRS. Where appropriate, expert advice from GRS and OGCI0 would be sought during the stage of system design and development.*

Planning for the service-wide implementation of electronic recordkeeping system

- (c) a presentation on the implementation roadmap of ERKS in the Government in the OGCIIO Stakeholders' Engagement meeting in September 2019.

2.10 ***Need to provide stronger management oversight.*** Under the EIM Strategy and Framework promulgated in OGCIIO Circular No. 1/2011 (see para. 1.9), for steering and monitoring the overall implementation of EIM (including ERKS), an EIM coordinator at directorate level should be appointed in each B/D. The roles and responsibilities of the EIM coordinators include, among others, liaising with the EIM Steering Group via the EIM Programme Management Office on policy issues and matters of EIM. In this connection, Audit examined the list of 84 EIM coordinators for the 75 B/Ds under the service-wide implementation of ERKS as of December 2019 and the attendance records of two briefing sessions (Note 22) on ERKS implementation organised by the EIM Programme Management Office in July and August 2019 (see para. 2.5) and found that:

- (a) of the 75 B/Ds, 10 (13 %) had appointed non-directorate level staff as their sole EIM coordinators (Note 23); and
- (b) 59 (70%) of the 84 EIM coordinators had not attended the briefing sessions in person.

In light of the latest pledge on the service-wide implementation of ERKS by end-2025, the EIM Programme Management Office needs to remind the B/Ds concerned to provide stronger management oversight, including appointment of directorate level staff as the EIM coordinators to ensure the smooth implementation of ERKS.

Audit recommendations

2.11 **Audit has *recommended* that the Government Chief Information Officer, the Director of Administration and the Commissioner for Efficiency should:**

Note 22: *B/Ds were advised to nominate a directorate officer responsible for departmental records management to steer the ERKS implementation and to attend the briefing.*

Note 23: *Of the 10 B/Ds, 3 had only one directorate level staff.*

- (a) **take further actions to follow up with B/Ds on outstanding ERKS implementation plans;**
- (b) **review B/Ds' ERKS implementation plans to ensure that the workload over the period from mid-2021 to end-2025 is evenly spread out as far as practicable, and liaise with and provide necessary support to those which have indicated difficulties in meeting the target of service-wide implementation of ERKS by end-2025; and**
- (c) **remind B/Ds to provide stronger management oversight on the service-wide implementation of ERKS.**

Response from the Government

2.12 The Government Chief Information Officer, the Director of Administration and the Commissioner for Efficiency agree with the audit recommendations. The Director of Administration has said that:

- (a) regarding the audit recommendation in paragraph 2.11(a), the EIM Programme Management Office:
 - (i) has been taking a proactive approach to assist B/Ds in drawing up their ERKS implementation plans. OGCIO, GRS and EffO have conducted a total of 17 briefings to B/Ds from July to December 2019 to provide information on different aspects ranging from introduction of ERKS, preparation work required for ERKS implementation and importance of change management, review of records classification scheme, to technical details of implementation of ERKS;
 - (ii) issued four reminders to relevant bureaux on 15 November 2019, 3 January 2020, 5 February 2020 and 18 March 2020 respectively for timely submission of the implementation plans; and
 - (iii) will further liaise with the relevant bureaux to request submission of the outstanding ERKS implementation plans by 15 April 2020;

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- (b) regarding the audit recommendation in paragraph 2.11(b), the EIM Programme Management Office agrees that it will be desirable for the implementation plans of ERKS to be evenly spread out over the period from mid-2021 to end-2025 as far as practicable. Upon receipt of the outstanding implementation plans, the EIM Programme Management Office will review individual plans with the concerned bureaux and adjust the timetable with a view to spreading out the implementation plan evenly as far as practicable; and
- (c) regarding the audit recommendation in paragraph 2.11(c), the EIM Programme Management Office:
 - (i) has been taking measures to enhance senior management support on the service-wide implementation of ERKS. Apart from arranging briefings to senior management of B/Ds as mentioned in paragraph 2.9, OGCIO, GRS and EffO have also conducted briefings cum meetings on implementation of ERKS to senior/directorate officers of four B/Ds from October 2019 to January 2020;
 - (ii) will continue with such efforts vigilantly to ensure a stronger management oversight for service-wide implementation of ERKS; and
 - (iii) will also remind B/Ds to appoint an EIM coordinator at the directorate level to oversee the service-wide implementation of ERKS, and will keep EIM coordinators informed of policy issues on EIM and ERKS.

Other planning issues

2.13 In the course of examining the implementation work of ERKS, Audit identified the following planning issues which should be taken into consideration in planning the service-wide implementation of ERKS:

- (a) electronic management of personnel records;
- (b) remote access to confidential records;

- (c) replacement of government e-mail system; and
- (d) manual data input efforts in using ERKS.

Need to implement electronic management of personnel records

2.14 ***Types of records to be managed in ERKS.*** According to ERKS implementation guidelines issued by GRS (see para. 1.10(b)), ERKS will progressively replace existing paper-based recordkeeping system for managing:

- (a) unstructured electronic records, such as e-mails, notes of meeting and videos (Note 24); and
- (b) non-electronic records, such as letters from the public and signed contracts (Note 25),

in an integrated, consistent and secure manner. ERKS is not intended for managing structured electronic records (Note 26), such as data in business IT systems (e.g. licensing or case management systems in different B/Ds).

2.15 ***ERKS not used for managing personnel records.*** According to OGCIO, while some B/Ds have implemented IT systems for human resources management

Note 24: *Unstructured electronic records refer to those created in an unstructured computing environment where: (a) business processes and workflows are not well defined; (b) a user has relative autonomy over what information is created, sent and stored; and (c) accountability for recordkeeping has not been well defined.*

Note 25: *To manage non-electronic records in ERKS, relevant information of the records (e.g. subject heading, sender, recipient, date sent/date received, location of the physical records) is registered in ERKS.*

Note 26: *Structured electronic records refer to those created in a structured computing environment where: (a) business processes are typically highly structured; (b) structured tools and techniques are employed to develop systems; and (c) accountability for the design, development, and maintenance of systems (including integrity of the records generated in the system) has been assigned.*

Planning for the service-wide implementation of electronic recordkeeping system

(i.e. keeping personnel records (Note 27) which are classified as structured electronic records), a number of B/Ds do not have dedicated IT systems to manage their human resources processes and need to keep personnel records on paper files. In response to Audit's enquiry on whether B/Ds which do not have human resources management IT systems may use ERKS for managing personnel records in future, in February 2020 GRS said that:

- (a) the main function of ERKS was to handle records in an unstructured computing environment, such as e-mails, minutes of meeting, letters and electronic messages. Records kept in structured computing environment, such as B/Ds' IT business systems, were outside the scope of ERKS. GRS understood that the Government was implementing the Government Human Resources Management Services (GovHRMS), which was a central IT system developed by OGCIO to handle human resources management operations and had already been rolled out to some B/Ds for pilot testing. GovHRMS could enable capturing staff data from the source, integrate and automate end-to-end human resources management activities for staff from recruitment to exit. In this connection, the personnel records should best be handled by GovHRMS under a structured computing environment in the long run;
- (b) GRS anticipated that there would be practical issues should personnel records be covered in the scope of ERKS. For example, some officers were transferred from one B/D to another from time to time. At present, not all B/Ds had implemented ERKS. If an officer was transferred between B/Ds with and without ERKS implemented, the officer's personnel records would have to be printed out from ERKS as paper records for use by B/Ds without ERKS, or the personnel records in paper form would have to be scanned into the receiving B/D's ERKS. The situation would be more complicated if, in the latter case, the officer was subsequently transferred to another B/D without ERKS; and
- (c) in view of (a) and (b), GRS advised B/Ds with ERKS to continue to manage their personnel records in paper files pending the full implementation of GovHRMS.

Note 27: *Personnel records in a B/D include records relating to appointments, conduct and discipline, hours of work, human resources planning, leave, occupational safety and health, promotion, staff performance and appraisal, staff relations, training and development, and personal case records.*

2.16 *Need to consider the way forward for electronic management of personnel records.* Upon Audit's enquiry, OGCI0 in March 2020 said that GovHRMS was a shared common service provided by OGCI0 for adoption by B/Ds on a voluntary basis. In Audit's view, as there is no plan of full implementation of GovHRMS in all B/Ds, the EIM Programme Management Office needs to consider the way forward for the electronic management of personnel records by B/Ds, such as promoting the wider adoption of GovHRMS.

***Need to critically evaluate feasibility of
remote access to confidential records***

2.17 *Remote access to confidential records not supported.* One of the benefits of ERKS is to facilitate easy retrieval of records. It allows greater flexibility in where and when staff locate and collaborate work-related documents. Currently, ERKS supports the capturing of records at three classification levels, namely unclassified, restricted and confidential. However, remote access to records at confidential level is not supported by ERKS being used by the 11 B/Ds under the pilot programme (Note 28). In other words, a user can only retrieve confidential records in ERKS when connected to government network in government offices. This arrangement is different from the government e-mail system, which supports remote access to confidential e-mails. In response to Audit's enquiry, OGCI0 in January 2020 said that:

- (a) in accordance with the Government Security Regulations:
 - (i) confidential information must be encrypted when transmitting over an untrusted communication network, e.g. networks that use public telecommunication lines such as wireless networks; and
 - (ii) other than accessing e-mails under the approved information systems (such as the government confidential e-mail systems) stipulated in the Government Security Regulations, approval from Head of B/D must be sought for both transmission of confidential

Note 28: *Of the 11 B/Ds: (a) ERKSs in 4 B/Ds support remote access to restricted and unclassified records; (b) ERKSs in 6 B/Ds do not support remote access to all records; and (c) ERKS of the remaining department only manages unclassified records.*

Planning for the service-wide implementation of electronic recordkeeping system

information through any wireless networks and the device used for the transmission;

- (b) when accessing ERKS records at confidential level, requirements set out in (a) should be observed; and
- (c) OGCIO had recently been in contact with the Security Bureau to identify the necessary security control measures for supporting remote access by B/D users when necessary.

2.18 *Need to critically evaluate feasibility of remote access to confidential records.* Supporting remote access to ERKS records at confidential level will facilitate easy retrieval of confidential records by staff when working at locations other than in government offices with connection to government network (e.g. working from home when warranted by special circumstances — Note 29). However, all related security issues including those mentioned in paragraph 2.17 will need to be addressed. In Audit's view, the EIM Programme Management Office needs to critically evaluate the feasibility of providing remote access to confidential records for the service-wide implementation of ERKS, in consultation with the Security Bureau, having regard to the prevailing security requirements.

Need to synchronise the implementation of the Centrally Managed Messaging Platform and ERKS

2.19 *Integration with e-mail systems.* According to GRS guidelines, it is a mandatory requirement that ERKS must enable integration with business applications, e.g. an e-mail system to facilitate record capturing. According to the EIM Programme Management Office, upon the service-wide implementation of ERKS, it will be integrated with either: (a) the decentralised e-mail systems currently in operation; or

Note 29: *From 29 January 2020 to 1 March 2020 and from 23 March 2020 onwards until further notice, to reduce the risk of the spread of the novel coronavirus in the community, the Government implemented a special work arrangement whereby certain staff were not required to return to office but to work from home. This is an example of the special circumstances under which some staff might need to have remote access to confidential records for performing their work effectively and efficiently.*

(b) the Centrally Managed Messaging Platform (CMMP — Note 30), depending on which e-mail system is being used by a B/D at the time of ERKS implementation.

2.20 ***Implementation progress of CMMP.*** According to the implementation plan of CMMP as stated in the paper submitted to the Finance Committee of the Legislative Council in May 2017, CMMP would be rolled out by phases for 22 B/Ds (revised to 24 B/Ds during implementation) in the Central Government Offices and their related sub-offices from December 2018 to June 2020. According to the progress report as at 31 March 2019 submitted to the Finance Committee in October 2019, the system rollout of Phase 1 would commence in the fourth quarter of 2019 and the scheduled implementation date was revised from June 2020 to December 2020.

2.21 ***Need to synchronise the implementation of ERKS and CMMP as far as practicable.*** Given that the deployment of ERKS to B/Ds is planned to commence in mid-2021 (see para. 2.2), i.e. after the implementation of CMMP by December 2020, ERKS will be integrated with CMMP for the 24 B/Ds in the Central Government Offices and their related sub-offices. According to the EIM Programme Management Office, for the remaining departments, ERKS would be integrated with the existing decentralised e-mail systems first. Upon the rollout of CMMP, ERKS would be integrated with CMMP. As other departments could roll out CMMP starting from 2021-22, they might take into account the timeframe for CMMP implementation when drawing up the high-level implementation plans for ERKS (see para. 2.6). In response to Audit's enquiry, in January 2020, OGCIO said that the implementation plan of CMMP for the remaining departments was being planned. In Audit's view, in order to avoid duplication of efforts, it is more desirable if the implementation of ERKS and CMMP can be synchronised for the remaining departments. The EIM Programme Management Office, in implementing ERKS in the remaining B/Ds in future, should take into account the implementation plan of CMMP as far as practicable.

Note 30: *In November 2017, the Finance Committee of the Legislative Council approved a funding of \$252.2 million under Head 710 of CWRP for implementing CMMP to replace the decentralised e-mail systems currently in operation in B/Ds.*

Need to explore ways to reduce manual data input efforts

2.22 ***Manual data input efforts in using ERKS.*** According to GRS, records are not captured automatically by ERKS. Subject officers should exercise discretion in deciding whether a piece of information or document should be regarded as records and captured into ERKS according to the business rules on creation and collection of records laid down by the respective B/Ds (Note 31). For e-mails, as the e-mail system is integrated with ERKS (see para. 2.19), most metadata of records (e.g. time and date, title, sender and recipients of an e-mail) can be automatically captured from the e-mail system to ERKS. For records other than e-mails, including non-electronic records, users are required to input most metadata of records into ERKS manually. Such manual data input efforts are prone to omissions and errors. Against this background, Audit considers that there are merits for the EIM Programme Management Office to take measures to reduce the extent of manual efforts required to input data into ERKS:

- (a) ***Promoting the wider use of workflow functions in ERKS.*** According to GRS guidelines, workflow functions:
 - (i) are optional requirements of an ERKS which may be adopted at the discretion of individual B/Ds, having regard to their business needs;
 - (ii) automate business processes to improve efficiency in performing business tasks. If a workflow facility is implemented together with an ERKS, it will provide a very useful tool to enable users to initiate workflows to pass documents, records or tasks to other users for specific actions and to support specific business processes; and
 - (iii) can facilitate the automation of records management activities such as seeking approval for disposal of folders that are due for destruction, and integration of records management process with business processes, e.g. automatic capturing of records.

Note 31: *In accordance with the Administration Wing Circular Memorandum No. 4/2012, entitled “Guidelines on Creation and Collection of Records”, the creation/collection of records should be adequate but not excessive. All B/Ds should develop their business rules to document decisions as to what records are to be created and kept by B/Ds. The business rules should give clear instructions to staff on: (a) what records to be created or collected; (b) who and when to create or collect records; and (c) where to keep records.*

There is a need to promote the wider use of workflow functions during the service-wide implementation of ERKS; and

- (b) ***Keeping in view latest technological development in ERM.*** Upon Audit's enquiry, GRS in February 2020 said that in view of the existing records management principle that records should not be automatically created, GRS had not conducted any study on automating the process of records creation and classification, and had no plan to do so. Audit examined the reviews conducted by national archives of overseas jurisdictions with experiences in implementing ERKS (i.e. the United States and the United Kingdom) and found that:
- (i) a review conducted by the National Archives of the United Kingdom concluded that the existing systems, which required individual users to identify documents that constituted official records, and then save them into ERKS had not worked well. The processes had been cumbersome (e.g. users considered it an unwanted burden to fill in a range of additional fields (i.e. the metadata) upon saving a record) and compliance had been poor (i.e. users saved records elsewhere (e.g. shared drives) rather than ERKS); and
 - (ii) the National Archives and Records Administration of the United States considered that asking individuals for taking responsibilities for identifying public records and saving them into an ERKS was proven to have failed. Hence, it was pursuing various automated solutions such as rule-based automation (Note 32) and auto-categorisation of records (Note 33).

Note 32: *Rule-based automation refers to the use of automated business rules that act on metadata, user roles, or another feature of records for identifying and capturing records falling under different categories. For example, a rule can be set in the system to capture all e-mails received or sent by a specific e-mail account containing certain key words automatically.*

Note 33: *With auto-categorisation of records, computer analysis of record content links the records to appropriate file categories. An expert trains the system to recognise records that fit in each retention category based on categorisation of a training set and iterative reviews of additional machine-coded documents. The algorithm learns to recognise patterns that are common to records that have already been categorised in a particular series with increasing accuracy as the expert trains it.*

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In Audit's view, there is a need to keep in view the latest technological development in ERM with a view to reducing manual data input efforts in using ERKS.

Audit recommendations

2.23 **Audit has *recommended* that the Government Chief Information Officer, the Director of Administration and the Commissioner for Efficiency should:**

- (a) consider the way forward for the electronic management of personnel records by B/Ds, such as promoting the wider adoption of GovHRMS;**
- (b) in consultation with the Security Bureau, critically evaluate the feasibility of providing remote access to confidential records in ERKS;**
- (c) in implementing ERKS in the remaining B/Ds in future, take into account the implementation plan of CMMP as far as practicable; and**
- (d) take measures to reduce the extent of manual data input efforts required to capture records into ERKS, including:**
 - (i) promoting the wider use of workflow functions in ERKS during the service-wide implementation of ERKS; and**
 - (ii) keeping in view the latest technological development in ERM.**

Response from the Government

2.24 The Government Chief Information Officer agrees with the audit recommendations. As regards the audit recommendation in paragraph 2.23(b), he has said that OGCIO has started discussion with the Security Bureau on the security design of ERKS including introducing necessary security measures in providing remote access to confidential records.

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2.25 The Director of Administration agrees with the audit recommendations. She has said that:

- (a) regarding the audit recommendation in paragraph 2.23(a):
 - (i) GRS will draw up specific guidelines on electronic management of personnel records for B/Ds to follow; and
 - (ii) OGCIO, in collaboration with GRS and EffO, will step up efforts to promote wider adoption of GovHRMS;
- (b) regarding the audit recommendations in paragraph 2.23(b) and (c):
 - (i) GRS has updated the standards and requirements of ERKS for management of confidential records in ERKS in 2016; and
 - (ii) OGCIO has been working closely with the Security Bureau during the development of CMMP and the ERKS base system to ensure that the operations of both CMMP and ERKS can address all the security concerns. OGCIO will also work in conjunction with GRS and EffO to evaluate the feasibility of providing remote access to confidential records in ERKS for all B/Ds;
- (c) regarding the audit recommendation in paragraph 2.23(d)(i):
 - (i) in order to minimise manual data input efforts in using ERKS, ERKS possesses functionalities to automate the capturing of metadata of records from the e-mail system to ERKS. Some ERKSs of B/Ds under the ERKS pilot programme possess functionalities to automate capturing of metadata of records from scanned records or other born-digital records;
 - (ii) the central ERKS to be implemented on a government-wide basis will possess functionalities to automate capturing of metadata of records from e-mail system, scanned records and other born-digital records. To further enhance automation, the central ERKS will be equipped with a workflow facility for records management activities

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for B/Ds' use, which will also be able to capture most metadata of the records in the workflow automatically; and

(iii) in fact, OGCIO, GRS and EffO have been promoting the wider use of e-mails for official communications and workflow functions in ERKS during briefings to B/Ds, and will continue to promote such practice in future briefings to B/Ds and in ERKS guidelines; and

(d) regarding the audit recommendation in paragraph 2.23(d)(ii), the EIM Programme Management Office will continue to keep in view the latest technological developments in ERM with a view to exploring and building in suitable measures to minimise the extent of manual data input efforts during records capture process in the central ERKS as far as possible.

2.26 The Commissioner for Efficiency agrees with the audit recommendations in paragraph 2.23(a) and 2.23(d)(i).

PART 3: IMPLEMENTATION OF ELECTRONIC RECORDKEEPING SYSTEM PILOT PROGRAMME

3.1 This PART examines the implementation of ERKS pilot programme, focusing on:

- (a) system development (paras. 3.2 to 3.36);
- (b) system operation (paras. 3.37 to 3.42); and
- (c) migration to central ERKS (paras. 3.43 to 3.47).

System development

ERKS pilot programme

3.2 ***Five early adopters.*** In addition to EffO which implemented an ERKS as part of a comprehensive EIM system in 2010, following the promulgation of the EIM Strategy and Framework in 2011 (see para. 1.9), four B/Ds, namely GRS, CCIB of CEDB, DSD and RVD, commenced the implementation of their respective ERKSs from 2011 to 2013. The five early adopters arranged their own procurement and implementation of commercial off-the-shelf ERKS software packages, with certain customisation work. In October 2014, the implementation of these pioneer projects was discussed in an E-Government Steering Committee meeting. The Committee was informed that some issues (Note 34) had led to high one-off and recurrent costs, and

Note 34: *They included: (a) industry-wide issues of insufficient experienced systems integrators, and uncertainty about the Government's plan for wider implementation and project acceptance standards; (b) confirmation of specifications for confidential registry and commercial off-the-shelf packages for wider rollout; (c) readiness within government agencies to manage the projects and associated changes, particularly benefits realisation; and (d) inconsistency in the business processes and practices in electronic recordkeeping.*

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often long implementation timeframes (Note 35), and should be considered in the next stage development.

3.3 *Need to extend the pilot programme.* In October 2014, the E-Government Steering Committee noted that:

- (a) GRS and OGCI0 had assessed the availability of mature ERKS software products in the market. After examining the functionalities and reviewing the demonstrations conducted by respective software providers, only a few software products appeared to satisfy the ERKS functional and metadata requirements stipulated by GRS;
- (b) EffO, GRS and OGCI0 jointly conducted a review to identify the best practices for implementing electronic recordkeeping. However, the size of the pioneering B/Ds was relatively small and the recordkeeping workflow and organisation structure were not representative;
- (c) at the next stage, implementing ERKS in a few larger departments with more complex records management requirements was advisable, rather than proceeding directly to full-scale rollout, because it would:
 - (i) ensure that the Government could have a full understanding of implementation issues affecting larger and more complex B/Ds, including the change management and human resources management implications;
 - (ii) provide a better test of the financial and operational benefits upon which the business case for implementing ERKS would be based;
 - (iii) help build up the capabilities of local industry to support the full-scale implementation of ERKS; and
 - (iv) provide an opportunity to test out shared procurement, through which an ERKS package for two or three departments would be obtained through one tender, to see if costs would be reduced through economies of scale; and

Note 35: *The one-off costs ranged from \$5.9 to \$9.9 million, the annual recurrent costs ranged from \$1.1 to \$2 million, and the implementation timeframe ranged from 6 to 21 months.*

Implementation of electronic recordkeeping system pilot programme

- (d) the GovCloud platform would be able to host departmental ERKSs. It was expected that adopting the common infrastructure service approach, instead of having individual B/Ds implement and install their own ERKSs, would likely result in savings in terms of costs and time and would also minimise risk.

The E-Government Steering Committee thus endorsed the proposal of implementing ERKS for a maximum of six B/Ds (Note 36) as the next stage development. OGCIO would centrally arrange for the provision of hardware for hosting, and for the procurement of software and configuration services.

3.4 *Six next-stage adopters.* The extended pilot programme involved implementing ERKS by way of a common/shared service platform managed by OGCIO in another six B/Ds (viz. the Administration Wing, CEDD, IPD, ArchSD, MD and OGCIO). For the Administration Wing, its ERKS was implemented on a shared infrastructure with GRS (see para. 1.11(b)). Three ERKS base systems were built as common services for deployment to the remaining five participating B/Ds (see para. 3.5). The required products and services for the implementation of ERKS in the Administration Wing were acquired via Standing Offer Agreements (Note 37) and direct purchase, while those for the remaining five B/Ds were acquired via an open tender exercise (see para. 3.6). The non-recurrent cost of about \$132 million for the extended pilot programme was funded by pooling resources from a number of project votes of OGCIO and the participating B/Ds under CWRP Head 710 (Note 38).

Note 36: *Participating B/Ds would be selected based on their readiness, interest and whether they provided a good sampling of the range of issues and opportunities that would be encountered across the whole of government for the purpose of measuring benefits arising from implementation of ERKS.*

Note 37: *OGCIO and Government Logistics Department arranged and managed Standing Offer Agreements for the procurement of IT products and services by B/Ds, e.g. supply of network products and server systems and provision of related services, and provision of IT professional services.*

Note 38: *OGCIO obtained funding for two projects concerning the implementation for the three base systems while the participating B/Ds obtained funding for the deployment services. The project vote of GovCloud (funding approved by the Finance Committee of the Legislative Council in 2012) covered the hardware and hosting as well as the software licence costs.*

Implementation of electronic recordkeeping system pilot programme

3.5 Implementation strategy of next stage development. For the next stage development of ERKS pilot programme, the five B/Ds were grouped under three projects, namely Projects 1 to 3 (Note 39), and one contract was awarded for each project. Under each contract, the contractor would provide the total solution and services for the implementation of ERKS by making use of one commercial off-the-shelf ERKS software package with necessary configuration and customisation. The contract covered the provision of implementation, on-going support and maintenance services, and supply of necessary software and hardware.

3.6 Tender exercise in 2015. A tender was issued by OGCIO in mid-2015 for procuring the ERKS services. By close of tender in July 2015, 14 offers from 9 tenderers were received. After evaluation, 8 offers were found conforming. In November 2015, three contracts were awarded, respectively, to: (a) Contractor A at a total cost of \$40.8 million for implementing the ERKS base system and system deployment (see para. 3.7) for OGCIO and IPD; (b) Contractor B at a total cost of \$36.3 million for implementing the ERKS base system and system deployment for ArchSD and MD; and (c) Contractor C at a total cost of \$33 million for implementing the ERKS base system and system deployment for CEDD.

3.7 Two-stage implementation. ERKS implementation has been divided into two stages under each contract: (a) base system implementation (Note 40); and (b) deployment to B/Ds with configuration to suit their operational needs (hereinafter referred to as system deployment — Note 41). OGCIO is responsible for administering the contracts, implementing the base system and supporting the base system during its deployment to B/Ds. OGCIO, as project owner of base system implementation and with the aim of ensuring quality and timeliness in conducting the project, is responsible for carrying out the user acceptance test of the base system prior to deployment to B/Ds. Other B/Ds, as project owners of system deployment,

Note 39: *Project 1 covered OGCIO and IPD; Project 2 covered ArchSD and MD; and Project 3 covered CEDD.*

Note 40: *The base system implementation included developing functions such as records classification and identification, capturing of records, security and access control, retention and disposal, and generation of management reports according to GRS's standards and requirements.*

Note 41: *System deployment included configuration of departmental records classification scheme, records disposal and retention schedules, user access rights setting, and integration with the e-mail system.*

Implementation of electronic recordkeeping system pilot programme

are responsible for collecting the requirements for the system to be deployed to them so as to meet their own operational needs, conducting user acceptance test by checking the configuration and testing the ERKS, and setting up hardware and software for system rollout.

3.8 ***Project organisations and governance structure.*** According to the Programme Management Plan for the pilot programme for next stage development of ERKS, the EIM Steering Group was the Programme Owner. Project organisations, i.e. a Programme Steering Committee (Note 42) and a Programme Management Office, were set up for the governance of the projects of implementation of the three base systems. B/Ds would set up their own project governance structures, including a project steering committee (PSC) to steer the project, for the implementation of ERKS in the B/Ds.

3.9 ***Project monitoring.*** All ERKS projects should follow the project governance mechanism for government IT projects stipulated in OGCI0 Circular No. 2/2011. B/Ds are required to submit status updates on the projects to OGCI0 on a quarterly basis (i.e. through the submission of Quarterly Project Progress Review Forms). In addition, according to OGCI0 Circular No. 3/2007, B/Ds are required to submit Post Implementation Departmental Returns (PIDRs — Note 43) six months after the projects are in operation.

Delay in ERKS implementation

3.10 According to the quarterly updates and/or PIDRs (see para. 3.9) submitted to OGCI0 by the 11 B/Ds, there were delays in 8 out of the 11 projects under the

Note 42: *The Programme Steering Committee was chaired by the Deputy Government Chief Information Officer, with members from the six participating B/Ds as business representatives and members from OGCI0, GRS and EffO as technical representatives.*

Note 43: *The purpose of PIDR is to evaluate the achievement of the projects to ensure that the Government's investment in the projects has attained the intended objectives in a timely and cost-effective way. After examining the PIDR results (such as whether there has been a substantial deviation from the planned achievements), OGCI0 will determine whether to initiate Post Implementation Reviews to look into the causes of deviation and identify necessary improvement, taking into account the recommendations of the pertinent B/Ds.*

Implementation of electronic recordkeeping system pilot programme

ERKS pilot programme (see Table 1). Among the five early adopters, CCIB of CEDB recorded the longest delay (18 months). According to its PIDR, the delay was mainly due to longer time taken for resolving technical problems. Audit noted that technical problems continued to emerge after system rollout and hence CCIB of CEDB was unable to dispense with the print-and-file practice (see para. 3.25(a)(i)). Upon Audit's enquiry, CCIB of CEDB in March 2020 said that:

- (a) back in 2012, choices of ERKS products in the market were limited given the need to comply with GRS requirements;
- (b) the original ERKS implementation plan was unrealistic because unexpected technical and operational issues had entailed substantial time and efforts to ensure smooth delivery of the critical mission of proper record retention and retrieval. There was also substantial rectification work during the system live-run stage before project completion; and
- (c) hence, the time spent was unavoidable and should not be considered as a delay.

Regarding the ERKS pilot projects under the next stage development, as of December 2019, implementation had been completed except the one for MD, which was anticipated to be completed in June 2021. Audit selected the MD's ERKS implementation (under Project 2 — see Note 39 to para. 3.5) for review and found areas for improvement as elaborated in paragraphs 3.11 to 3.17.

Implementation of electronic recordkeeping system pilot programme

Table 1

Delays in system live-run of projects under the ERKS pilot programme (December 2019)

B/D	Number of users as at live-run date	System live-run date (Note 1)		Delay (Month)
		Planned	Actual	
Five early adopters:				
EffO	100	Jan 2010	Jun 2010	5
GRS	145	Dec 2013	May 2014	5
CCIB of CEDB	70	Dec 2012	Jun 2014	18
RVD	100	Nov 2014	Nov 2014	—
DSD (Note 2)	240	May 2015	Apr 2016	11
Six next-stage adopters:				
IPD	200	Apr 2016	Jul 2016	3
OGCIO	1,000	Mar 2016	Aug 2016	5
Administration Wing	200	Dec 2016	Dec 2016	—
CEDD	1,500	Jun 2018	May 2018	—
ArchSD (Note 3)	200	Jul 2017	Sep 2019	26
MD (Note 3)	750	Jan 2020 (Jun 2021 — Note 4)	Not yet completed	17 (Note 4)

Source: Audit analysis of OGCIO records

Note 1: For ERKS implemented in phases, the system live-run date of the last phase of implementation was used to measure project delays.

Table 1
(Cont'd)

- Note 2: According to DSD, in addition to ERKS, the project scope covered implementation of another EIM system, namely collaborative workspace system. The system mainly involves electronic workflow to support better management of selected business processes such as easier management of tasks involving various personnel, better enforcement of following pre-defined procedures, easier monitoring of task status, bring-up reminders for tasks nearly due and reducing waiting time on delivering hard copy documents. Seizing this opportunity to streamline business processes, a longer time than planned had been taken to conduct business process re-engineering.*
- Note 3: ArchSD's ERKS only included one branch. ERKSs of MD and ArchSD were implemented under the same contract sharing a common base system under Project 2.*
- Note 4: As of December 2019, the original target system live-run date had been extended by 17 months from January 2020 to June 2021.*

3.11 Implementation of ERKS common base system for MD and ArchSD (hereinafter referred to as the common base system). According to the Project Highlight Report (Note 44) of the common base system, base system for MD was planned to be ready for deployment to MD in May 2016. In view of the delay in implementing the common base system (see paras. 3.12 to 3.14), in June 2017, OGCIO approved Contractor B's proposal of dividing the common base system functions into core functions and remaining functions (Note 45). According to MD, in September 2017, the common base system was deployed to MD for testing when the core functions of the system were ready. According to OGCIO, the whole common base system was completed in August 2019 when all the core and remaining functions were ready for use. As compared with the planned completion date of May 2016, there was a delay of 39 months. Table 2 shows the delays in key milestones:

-
- Note 44:** *It documents the project status, progress of key activities and milestones of the project, and other issues such as project changes.*
- Note 45:** *Core functions include functions on: (a) record capturing; (b) use of records; and (c) records management. Remaining functions include functions to: (a) assign records disposal schedule to aggregation; (b) prepare consignment with types of disposal action; and (c) create reports relating to records disposal and retention.*

Implementation of electronic recordkeeping system pilot programme

Table 2

Delay in key milestones of Project 2 ERKS common base system (30 October 2019)

Stage	Description	Completion date		Delay (Month)
		Planned (Note)	Actual	
1	Project initiation	Feb 2016	Feb 2016	—
2	System analysis and design	Mar 2016	Sep 2016	6
3	Delivery, installation test and setup of hardware and software for the base system	Apr 2016	Dec 2017	20
4	Implementation of the base system	May 2016	Feb 2017	9
5	Security risk assessment and audit, privacy impact assessment for the base system	Jun 2016	Dec 2017	18
6	Acceptance test for the base system	Jun 2016	Sep 2019	39
7	Review of the functionality of the base system	Aug 2016	Sep 2018	25
8	Support of the base system during deployment and nursing	Apr 2020	Not yet completed	—
9	Project closure	Apr 2020	Not yet completed	—

Source: OGCIO records

Note: According to contract provision, the planned completion date was specified in the Project Initiation Document approved by OGCIO.

Remarks: The delay in the implementation of the common base system had a knock-on effect on the subsequent batches of rollout and the overall ERKS implementation completion date was extended by 17 months from January 2020 to June 2021 (see Table 1 in para. 3.10).

Implementation of electronic recordkeeping system pilot programme

3.12 **Implementation of system deployment for MD.** MD's system deployment comprises 4 batches (Note 46). As of February 2020, only Batch 1 had been implemented. As compared with the target completion date of January 2018, Batch 1 system deployment was only completed in August 2019 with a delay of 19 months. Table 3 shows the delay in key milestones of system deployment for MD's ERKS (Batch 1).

Table 3

**Delay in key milestones of system deployment for MD's ERKS (Batch 1)
(30 October 2019)**

Key milestones	Completion date		Delay (Month)
	Planned (Note 1)	Actual	
Project initiation	Mar 2017	Apr 2017	1
Collection of configuration requirements	May 2017	Jul 2017	2
System deployment and client installation	Aug 2017	Sep 2017	1
User acceptance test and training	Dec 2017	Jun 2019 (Note 2)	18
System live-run (for Batch 1)	Jan 2018	Aug 2019	19

Source: OGCIO and MD records

Note 1: According to contract provision, the planned completion date was specified in the Project Initiation Document approved by MD Project Steering Committee (see para. 3.17).

Note 2: According to MD, the testing of core functions was completed in September 2018 while that of the remaining functions was completed in June 2019.

Note 46: According to MD, its ERKS implementation adopts an incremental approach with users grouped into four batches (involving different user sections/units) for implementation. Batches 1 to 4 of system deployment involve the development of records classification scheme for user sections/units, deployment and setup of hardware and software, conduct of user acceptance test and training, etc.

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3.13 *Main reasons for the delays.* Audit examination revealed that the delays in implementing the common base system and Batch 1 system deployment were mainly attributable to the unsatisfactory performance of Contractor B:

- (a) *Common base system.* There was a serious delay in key milestones on system design and development. According to OGCIO, it had closely monitored Contractor B's progress in developing the system and rectifying identified issues. From September 2016 to June 2017, OGCIO issued seven warning letters to Contractor B on its unsatisfactory performance, including:
 - (i) severe schedule slippage and loose management of its performance of the Contract;
 - (ii) inadequate staff resources; and
 - (iii) failure to submit a rectification plan on staff resources to demonstrate its commitment to complete the project on time.

In order to speed up the progress, in June 2017, OGCIO approved Contractor B's proposal of dividing the common base system functions into core functions and remaining functions, with priority accorded to delivery of core functions such that the implementation of MD's system deployment would not be seriously affected. In the light of the substantial delay, OGCIO had adopted/explored various measures including issuing warning letters to Contractor B and terminating the contract (Note 47); and

Note 47: *The Government has the right to terminate the Contract if the Contractor: (a) persistently failed to carry out the whole or any part of the services punctually or in accordance with the terms and conditions of the Contract; or (b) fails to successfully complete any activity in accordance with the terms and conditions of the Contract for more than eight weeks after the date specified in the implementation plan by which that activity should have been completed. After seeking legal advice and taking into consideration that the Contractor had not abandoned the project, OGCIO considered that the decision to terminate the Contract should not be taken lightly as there was a need to consider the consequences of termination and the costs and time of re-tendering for a contractor to implement ERKS.*

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- (b) ***System deployment to MD.*** According to MD, a premature base system was deployed to MD for testing resulting in substantial number of errors identified in the user acceptance test. The large number of errors took a long time to fix:
- (i) ***A substantial number of errors found.*** When errors were found in the testing of the common base system and system deployment, they were recorded in the test incidents reports (TIRs) for subsequent rectification by Contractor B as a quality assurance. According to MD, when the common base system was deployed to MD in September 2017, there were 475 TIRs. Contractor B was required to fix the errors before the ERKS for MD could be rolled out to Batch 1 users. For the user acceptance test and training stage of Batch 1 of system deployment from September 2017 to October 2019, there were a total of 765 TIRs identified by MD (Note 48) when carrying out user acceptance test on the core and remaining functions. As of October 2019, among the 765 TIRs, 604 (79%) had been closed, 125 (16%) were still outstanding, and 36 (5%) had been withdrawn/clarified without further action taken. According to MD, of the 765 TIRs, 554 (72%) were related to the functions of the common base system;
- (ii) ***Long time taken in fixing errors identified in critical TIRs.*** To expedite the rectification of TIRs, MD and Contractor B agreed to tackle critical TIRs (i.e. urgent and high-priority cases) first. Audit analysed the 604 closed TIRs and found that 480 (79%) TIRs were classified as urgent/high priority. For these 479 TIRs (111 (urgent) + 368 (high priority) (Note 49)), it took Contractor B 92.4 days (ranging from 0.6 to 518.5 days), on average, to fix the errors identified in the TIRs (see Table 4); and

Note 48: According to MD, during the period, there were about 300 TIRs identified by ArchSD and about 910 TIRs identified by OGCIO.

Note 49: Only 368 instead of 369 high-priority TIRs were analysed because the error reporting date of the remaining TIR could not be found.

Table 4

**Time taken for Contractor B to fix errors identified
in 479 urgent/high-priority TIRs
(September 2017 to October 2019)**

TIR		Time taken		
Classification	Number	Average	Maximum	Minimum
		(Day)		
Urgent	111	110.5	391.8	0.6
High priority	368	87.0	518.5	0.7

Source: Audit analysis of MD records

- (iii) **High re-test failure rate.** Out of the 765 TIRs, 246 (32%) failed the required testing one or more times, ranging from 1 to 14 times. According to MD, when errors identified in TIRs were reported fixed by Contractor B, OGCIO would test and verify that the errors had been fixed before passing to MD. On many occasions, MD found that errors identified in TIRs had not been entirely fixed and had to return to Contractor B for follow-up. MD considered that Contractor B's inability to rectify the system errors resulted in extra efforts by MD to test and verify the re-test TIRs again.

As of February 2020, the total number of outstanding TIRs for the common base system was 191, comprising 7 urgent/high-priority cases and 184 normal/low-priority cases. The total number of outstanding TIRs for MD's system deployment was 78, comprising 2 urgent/high-priority cases and 76 normal/low-priority cases.

3.14 In March 2020, MD and OGCIO informed Audit that:

MD

- (a) regarding the division of base system functions of the common base system into core and remaining functions (see para. 3.13(a)), there was a risk in splitting the functions which had resulted in 4.5 months delay due to the

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additional time required to fix all the bugs when merging these two integral parts of the base system. In October 2017, shortly after ERKS was deployed to MD, MD had sent an e-mail to OGCIO, expressing grave concern about the system performance in view of the large number of bugs identified in the user acceptance test. MD considered that a premature system was deployed to MD (see para. 3.13(b));

- (b) regarding the rectification of errors recorded in TIRs (see para. 3.13(b)):
 - (i) MD had spent extra efforts in conducting additional and frequent meetings with Contractor B to ensure that it fully understood the system errors;
 - (ii) repeated e-mails were sent to the Contractor urging it to expedite the error-fixing process; and
 - (iii) since the Contractor failed to maintain effective communication with its sub-contractors and conduct quality check, the process of bug fixing was slow;

OGCIO

- (c) the division of base system functions of the common base system into core and remaining functions aimed at mitigating the delay in implementing the common base system. As compared with the delay of the common base system of 39 months, the delay in the system live-run (for Batch 1) was 19 months; and
- (d) after receiving the system error reports from MD, OGCIO had taken prompt actions to follow up with Contractor B, with priority accorded to urgent/high-priority cases. It would endeavour to fix the errors recorded in the outstanding TIRs as soon as possible.

Need to seek legal advice about imposing liquidated damages

3.15 According to OGCIO, when there was a slippage of project schedule in 2016, it had considered different options including imposing liquidated damages and termination of contract. However, according to the contract provision, liquidated

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damages can only be imposed if the Contractor fails to supply and deliver the System in Ready for Use condition (i.e. put into live-run) by the completion date, which was the completion date of rollout of all four batches in MD scheduled for January 2020 at that time. In the warning letters of 30 November and 13 December 2016 issued to Contractor B (see para. 3.13(a)), OGCIO said that it reserved the rights to impose liquidated damages (Note 50) and terminate the Contract if there was no improvement in its performance. In consideration of the project slippage, two Project Issue Reports were prepared by Contractor B to record project issues and resolutions, and to re-baseline project schedule. OGCIO noted that Contractor B had strengthened the project governance and injected additional resources to the project since December 2016 and made significant progress in the development work while the restructured development team still needed to catch up the previous slippage. However, there were still a number of outstanding issues. The project schedule was further revised in 2019 and the extension of the target completion date of the whole system to June 2021 was endorsed without imposing liquidated damages on Contractor B before re-baselining the project schedule. In this connection, while having sought the Department of Justice's advice on the termination of contract and the consequence of accepting a revised implementation plan, OGCIO (as the contract administrator) did not seek specific legal advice about imposing liquidated damages (\$2 million — Note 51) before approving the extension of completion date, despite the unsatisfactory performance of Contractor B (see para. 3.13). To better protect Government's interest, Audit considers that OGCIO should have sought the Department of Justice's advice on whether liquidated damages should be imposed on granting the extension of completion date.

Note 50: *According to the provisions of the Contract, the Contractor shall supply and deliver to the Government the System in Ready for Use condition on or before the completion date. If the Contractor fails to do so, the Contractor shall pay to the Government as and by way of liquidated damages for the losses and damage sustained by the Government resulting from delay during the period from that completion date to the actual date on which the Contractor provides the System Ready for Use the sum of zero point fifteen (0.15) percent of the total implementation price for each day or part of the day of such delay, subject to a ceiling of fifteen (15) percent of the total implementation price.*

Note 51: *The amount of liquidated damages that could have been imposed is \$2 million, which is capped at 15% of the total estimated contract value that could have been imposed less cost of system maintenance (\$13.6 million). The maximum liquidated damages covers the loss arising from the delay of 100 days.*

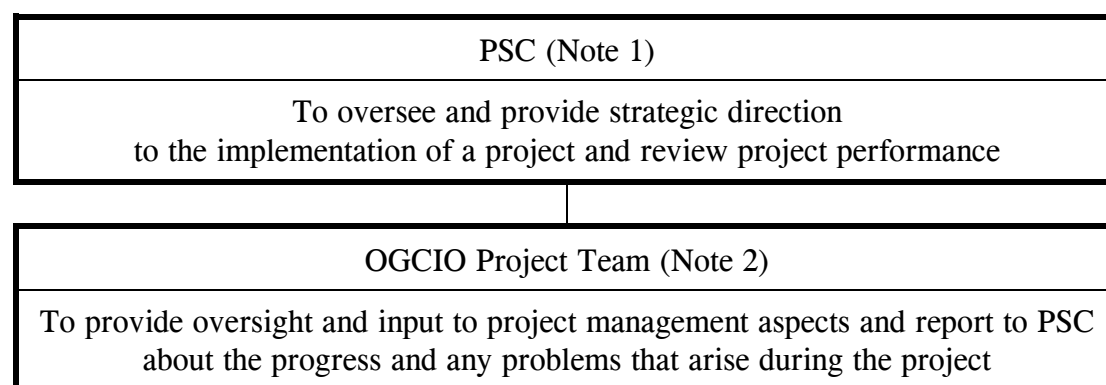
Inadequacies in monitoring project progress

3.16 **Monitoring by OGCIO.** OGCIO has set up a two-tier project governance structure comprising a PSC and a Project Team to oversee the common base system development of MD and ArchSD (see Figure 1). Audit examination revealed inadequacies in OGCIO's project monitoring:

- (a) only two OGCIO PSC meetings (in December 2015 and June 2016) had been held. From July 2016 to August 2019, although the Project Team actively monitored the performance of Contractor B, no PSC meetings had been conducted to provide timely strategic guidance on project implementation issues including the termination of contract or imposition of liquidated damages; and
- (b) no project management plan had been submitted to PSC from September 2016 to August 2019.

Figure 1

OGCIO's two-tier project governance structure



Source: OGCIO records

Note 1: PSC was chaired by the Chief Systems Manager with representatives from GRS and the Project Management Office as members.

Note 2: OGCIO Project Team comprised relevant officers from OGCIO and representatives of the Contractor.

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3.17 **Monitoring by MD.** MD Information Technology Steering Committee (ITSC — Note 52) oversees the departmental IT strategy and implementation. In accordance with the guidelines of OGCIO (see para. 3.9), MD adopted a three-tier project governance structure comprising: (a) a PSC; (b) a Project Assurance Team (PAT); and (c) a Project Team to oversee the implementation of system deployment of the ERKS Project (see Figure 2). In April 2017, PSC approved a Project Initiation Document (PID) (Note 53) for monitoring and control of the ERKS project. PID sets out the control mechanism, such as checkpoint meetings, project progress reports and project issues for special attention. Audit examination revealed inadequacies in MD's project monitoring, as follows:

- (a) **Regular PSC and PAT meetings not conducted.** The key roles of PSC and PAT are to oversee and provide guidance and strategic direction to the implementation of the project and to ensure project delivery (see Figure 2). However, Audit noted that, up to March 2020, since the commencement of the project by MD in January 2017, PSC and PAT had only held one meeting (Note 54 and Note 55) in August 2019 for endorsing the revised rollout date of Batch 1 system deployment. According to MD: (i) given the potential serious implications, steer on the revised implementation schedules for the project was sought on a number of occasions from MD ITSC, which was a high level committee overseeing all IT strategy and

Note 52: *The Deputy Director (Special Duties) of MD was both the Project Owner of the MD's system deployment and the chairperson of MD ITSC.*

Note 53: *MD's PID described the approach for managing the Project of MD for the implementation of ERKS with the aim of ensuring quality and timeliness in conducting the Project.*

Note 54: *At its first meeting held in August 2019, PSC of MD approved the extension of target completion date for system live-run of Batch 1 of MD's system deployment by 17 months from January 2018 to June 2019. The delay in completion of the common base system had also a knock-on effect on the planned completion date of the overall MD ERKS implementation, which was approved by PSC to be extended by 17 months from January 2020 to June 2021.*

Note 55: *PAT held only one meeting in the project period, which was on the same day of the PSC meeting, to recommend the system rollout date for Batch 1 and revise project schedule laid down in PID. According to MD: (a) the implementation progress of ERKS was reported at half-yearly intervals at the MD ITSC which is chaired by the Deputy Director (Special Duties) with divisional representatives at directorate rank as members; and (b) endorsement and steer had been sought from PSC by circulation since January 2017 (this included endorsement for PID and project progress updates through e-mails).*

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implementation in MD; and (ii) due to the on-going problems of system deployment to MD, frequent meetings (including checkpoint meetings and ad hoc meetings) had been held by MD with Contractor B and OGCIO to sort out the problems identified as a matter of urgency, without waiting for the next PSC/PAT meeting; and

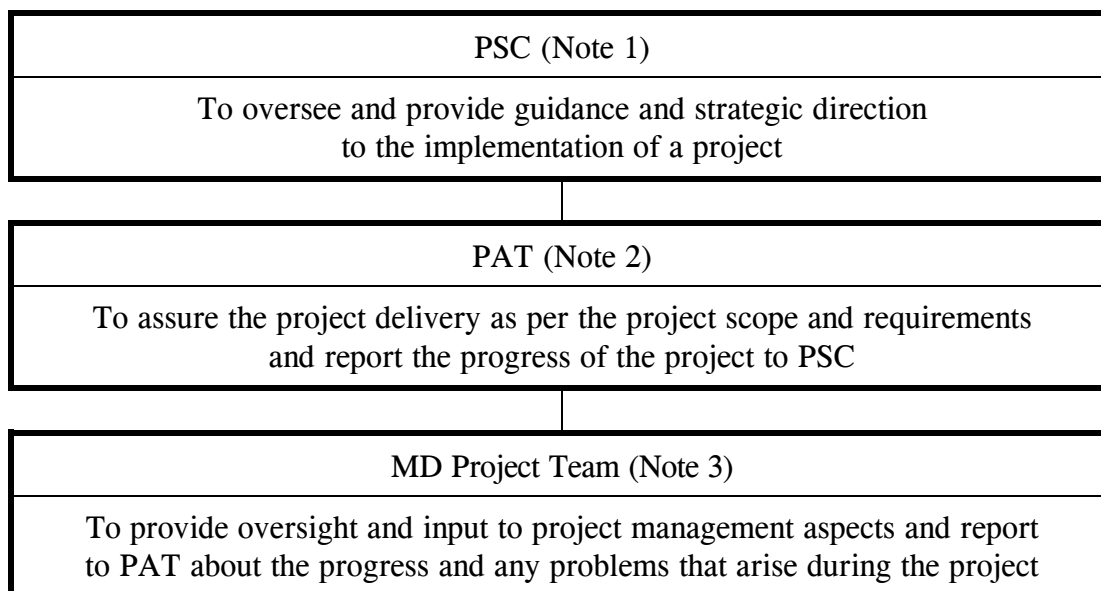
- (b) ***Project Progress Reports not timely prepared for management review.*** According to PID, Contractor B was required to submit Project Progress Reports, on a monthly basis, stating the project progress and major issues encountered commencing from March 2017. The Project Progress Reports would be distributed to PSC and PAT members for information. However, Audit found that MD had only requested Contractor B to submit Project Progress Reports since September 2018. Since December 2019, Project Progress Reports had been distributed to members of PSC and PAT (Note 56). In this connection, in January 2020, MD informed Audit that the progress of the ERKS Project was reported by Contractor B at monthly checkpoint meetings and the notes of meetings served as a record of the progress.

In Audit's view, OGCIO needs to closely monitor the project progress to ensure that ERKS for MD can be completed by the revised completion date of June 2021. In view of the substantial delay in the common base system, OGCIO needs to draw lessons to improve the monitoring of contractors in the service-wide implementation of ERKS. Audit also considers that MD needs to strengthen the monitoring of Contractor B's performance by holding regular PSC and PAT meetings and requiring Contractor B to timely submit Project Progress Reports in accordance with the requirements in PID.

Note 56: *6 out of 16 PAT members were members of the Project Team who would be distributed the Project Progress Reports. In addition, the chairperson of PAT participated in the monthly checkpoint meetings.*

Figure 2

MD's ERKS project governance structure



Source: MD records

Note 1: PSC was chaired by the Departmental Secretary of MD with representatives from the Information Technology Management Section, Administration Section, and various Divisions as members.

Note 2: PAT was chaired by the Senior Information Technology Manager with representatives from the Information Technology Management Section, Administration Section, and various Divisions as members.

Note 3: MD Project Team comprised the Information Technology Manager (MD Project Manager) and representatives from the Information Technology Management Section and Administration Section as members.

Remarks: MD ITSC is tasked to review the departmental IT strategy, and explore and steer joined-up Government IT initiatives and coordinate the integration with other Government IT systems.

Inadequacies in preparing and submitting PIDRs

3.18 **Delays in submission of PIDRs.** The ERKS pilot programme involved 13 projects (including one project for 11 B/Ds each plus two projects for base systems — see Note 38 to para. 3.4) funded under CWRP Head 710. As of January 2020, PIDRs of 10 completed projects were due for submission. Of the 10 PIDRs, despite the issue of monthly reminders by OGCIO, 8 were submitted late or still outstanding (see Table 5).

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Table 5

**Delays in submission of PIDRs
(January 2020)**

Project	Date of system live-run stated in PIDR (a)	Date of submission of PIDR (b)	Time lapse (c) = (b) – (a) (Month)	Delay (Note 1) (d) = (c) – 7 months (Month)
EffO	1 Jun 2010	11 Oct 2011	16	9 (Note 2)
GRS	13 May 2014	30 Dec 2014	7	—
CCIB of CEDB	23 Jun 2014	25 May 2017	35	23 (Note 3)
RVD	28 Nov 2014	26 May 2015	6	—
DSD	25 Apr 2016	20 Feb 2017	10	3
IPD	20 Jul 2016	27 Mar 2017	8	1
OGCIO	31 Aug 2016	17 Oct 2017	14	7
Administration Wing	30 Dec 2016	1 Oct 2017	9	2 (Note 4)
Base systems for Projects 1 and 3	14 May 2018	Not yet	20	13
CEDD	31 May 2018	16 Jul 2019	13	6

Source: Audit analysis of OGCIO records

Note 1: According to the PIDR template, the timeframe of submission is within seven months after the system live-run date. This is slightly different from the requirement stipulated in OGCIO Circular No. 3/2007, i.e. to submit a PIDR six months after the project is in operation (see para. 3.9).

Note 2: According to EffO, after system live-run, the system was further enhanced and hence the submission of PIDR was withheld until the successful completion of the enhancement.

Note 3: According to CEDB, with the agreement of OGCIO, the deadline of submission was extended by 5 months to June 2015. Due to continuous emergence of technical problems after system rollout, the submission of PIDR was withheld until the smooth completion of all rectification work in March 2017.

Note 4: According to the Administration Wing, its ERKS was rolled out to Phase 1 users on 30 December 2016 and other users on 17 March 2017. In the event, PIDR was completed in October 2017, i.e. which was within seven months after the system live-run.

3.19 *Savings in paper/printing costs not properly reported in PIDRs.* Audit found that all B/Ds reported in PIDRs that savings in paper/printing costs had been or would be realised. However, as the time needed to dispense with the print-and-file practice varied (see para. 3.23), some B/Ds had not yet dispensed with the print-and-file practice at the time of submitting PIDRs (see Table 5 in para. 3.18). In Audit's view, the benefits of ERKS in reducing their paper/printing costs can only be realisable and measureable in longer term after dispensing with the print-and-file practice. For the service-wide implementation of ERKS, there is a need to set up a mechanism to measure B/Ds' savings in paper/printing costs upon the cessation of the print-and-file practice.

Areas for improvement in dispensing with print-and-file practice

3.20 *Compliance assessment.* As stipulated in General Circular No. 2/2009, B/Ds should adopt print-and-file practice to retain e-mail records in their departmental recordkeeping system unless otherwise agreed by GRS. According to GRS guidelines, B/Ds which have fully implemented a proper ERKS should conduct a compliance assessment (Note 57) before seeking GRS's prior approval for dispensing with the print-and-file practice in managing e-mail records. The compliance assessment covers two mandatory components:

- (a) an evaluation of an ERKS including its functionality, features, system configuration and customisation; and
- (b) an evaluation of departmental records management policies, practices and procedures governing the use, management and maintenance of an ERKS.

Note 57: *A compliance assessment aims to assist B/Ds in evaluating and validating whether an ERKS and the associated departmental records management policies, practices and procedures governing the use, management and maintenance of an ERKS are able to: (a) comply with the Government's records management policy and ERM requirements; (b) support the discharge of records management functions and activities common to B/Ds; (c) maintain the authenticity, integrity, reliability and usability of records managed by an ERKS throughout their life cycles to serve as reliable evidence of decisions and activities of B/Ds; (d) meet specific business, operational and records management needs of B/Ds; and (e) ensure that records with archival value are properly managed by an ERKS before they are transferred to GRS for retention.*

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B/Ds should conduct the evaluation in (a) in the context of system acceptance, i.e. prior to the rollout of an ERKS to users, and the evaluation in (b) no later than three months after the rollout of an ERKS.

3.21 ***GRS approval procedure.*** If a B/D has achieved the required ratings in the compliance assessment, the B/D may make a request to seek GRS's agreement to dispense with the print-and-file practice in managing e-mail correspondence together with the required ERKS documentation including the system and user manuals, the compliance assessment report and the departmental records management policies, practices and procedures. If needed, GRS may require the B/D concerned to conduct a demonstration of ERKS functionality on site to GRS representatives. GRS will notify the B/D concerned in writing if agreement is given to dispense with the print-and-file practice with effect from a specified date. For a refusal case, GRS will provide advice and recommendations for the B/D concerned to make improvements. Upon the satisfactory completion of the improvement measures, the B/D concerned may make a fresh request to GRS to discard the print-and-file practice.

3.22 ***Cessation of print-and-file practice.*** As of December 2019, 7 of the 11 B/Ds under the ERKS pilot programme (i.e. EffO, GRS, DSD, OGCIO, IPD, the Administration Wing and CEDD) had dispensed with the print-and-file practice. The progress for the remaining 4 B/Ds is as follows:

- (a) ***Two early adopters.*** While both CCIB of CEDB and RVD rolled out their ERKSs in 2014, they have not dispensed with the print-and-file practice (see para. 3.25). They have been adopting a parallel run of ERKS and the print-and-file practice for over five years; and
- (b) ***Two next-stage adopters.*** Both ArchSD and MD have not applied to GRS for dispensing with the print-and-file practice because ERKS was recently launched in the two B/Ds.

To reap the benefits of ERKS in reducing costs for printing, managing and storing paper records, there is a need to dispense with the print-and-file practice as soon as practicable. In addition, Audit has identified areas for improvement in enforcing the compliance with cessation of print-and-file practice in the B/Ds under the ERKS pilot programme as elaborated in paragraphs 3.23 to 3.25.

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3.23 *Variance in time taken to dispense with print-and-file practice.* Audit analysis revealed that the time B/Ds under the pilot ERKS programme had taken to cease the print-and-file practice (i.e. counting from the system live-run date of ERKS to the specified date approved by GRS to dispense with the print-and-file practice) ranged from 3 to 25 months (see Table 6).

Table 6

Time taken to cease print-and-file practice in seven B/Ds under ERKS pilot programme

B/D	System live-run date (Note 1) (a)	Date of cessation of print-and-file practice (b)	Duration of parallel run (c) = (b) – (a) (Month)
Three early adopters:			
EffO (Note 2)	Jun 2010	Jun 2010	—
GRS (for unclassified and restricted records) (for confidential records)	May 2014	Sep 2014	4
	Sep 2015	Oct 2016	13
DSD	Apr 2016	May 2018 (Phase 1)	25
Four next-stage adopters:			
IPD	Jul 2016	Dec 2017	17
OGCIO	Aug 2016	Apr 2017	8
Administration Wing	Dec 2016	Mar 2018	15
CEDD	May 2018	Aug 2018 (Phases 1 and 2)	3 (Phases 1 and 2)
		Oct 2018 (Phase 3)	5 (Phase 3)

Source: Audit analysis of OGCI O and GRS records

Note 1: For ERKS implemented in phases, the system live-run date for the last phase of implementation is adopted to measure the duration of parallel run.

Note 2: According to GRS, EffO implemented its ERKS in 2010 and dispensed with the print-and-file practice accordingly. At that time, GRS had not yet promulgated relevant guidelines and procedures requiring B/Ds to obtain GRS's approval before dispensing with the print-and-file practice.

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3.24 ***Early involvement of GRS being a key success factor.*** Audit noted that while CEDD's ERKS supported the highest number of users (i.e. around 1,500 users) among the B/Ds under the ERKS pilot programme, CEDD only took five months to cease the print-and-file practice in October 2018 after the system live-run date in May 2018. Audit noted that early involvement of GRS could be one of the key success factors contributing to the timely cessation of the print-and-file practice. Specifically, instead of involving GRS for dispensing with the print-and-file practice only after system live-run, CEDD engaged GRS to conduct a compliance check of the ERKS functional requirements upon the completion of each phase such that any issues identified by GRS during the compliance check could be resolved in a timely manner. In Audit's view, such good practice should be promoted during service-wide implementation of ERKS, especially for large-sized B/Ds implementing ERKS in phases.

3.25 ***Prolonged parallel run of ERKS and print-and-file practice in two B/Ds.*** As mentioned in paragraph 3.22(a), two early adopters, namely CCIB of CEDB and RVD, have continued to adopt a parallel run of ERKS and the print-and-file practice for over five years since the rollout of ERKS in 2014. In Audit's view, the prolonged parallel run is undesirable because it creates additional workload to users in managing records. Omission in filing is also more likely to occur. Audit sample check of 20 paper files in CCIB of CEDB found that in 8 files, some records were not filed in ERKS, or were filed into ERKS late (see para. 3.38(c)). On the other hand, some e-mails in 3 of the 20 files were not printed and filed. Audit noted that the prolonged parallel run was mainly attributable to:

- (a) ***Technical problems.*** Both CCIB of CEDB and RVD had encountered technical problems after the rollout of ERKS, as follows:
 - (i) ***CCIB of CEDB.*** After the rollout of ERKS in June 2014, technical issues emerged intermittently. During the compliance check conducted by GRS in December 2014, two issues of non-compliance with ERKS functional requirements and the Recordkeeping Metadata Standard (see para. 1.10(a)) were identified. ERKS was enhanced in June 2015 to address the issues. One year later, CCIB of CEDB identified another critical issue relating to the search function of ERKS. The issue was resolved in September 2016. In early 2017, CCIB of CEDB found that there was a need to enhance the existing ERKS to: (i) comply with the updated functional requirements of ERKS promulgated by GRS in September 2016;

and (ii) tackle the end of support of the existing ERKS solution by April 2018. As a result, CCIB of CEDB decided to migrate its ERKS to the ERKS base system developed by OGCIO. The migration was completed in June 2019. In January 2020, CCIB of CEDB was preparing another submission to GRS for dispensing with the print-and-file practice; and

- (ii) **RVD.** While the contractor of RVD's ERKS in October 2014 confirmed that the system had been implemented in accordance with the functional requirements stipulated by GRS, GRS found issues of non-compliance with the functional requirements during two demonstration sessions on RVD's ERKS functionality held in November and December 2014. In February 2015, RVD implemented enhancements to address the issues. In March 2016, RVD submitted a request to GRS for dispensing with the print-and-file practice (Note 58). From April 2016 to June 2017, three demonstration sessions were held and RVD completed enhancements to address some of the issues raised by GRS. However, there were still outstanding issues. In June, October and November 2017, GRS held three meetings with RVD to discuss proposed enhancements to address the outstanding issues, however, no mutual agreement could be reached. According to RVD, due to limitations of the software package adopted for the ERKS, a complete system upgrade or substantial enhancements would be the only viable options to meet the functional requirements stipulated by GRS. However, both options would be resource-demanding and would involve technical complication; and

- (b) **System migration and competing priorities.** Upon Audit's enquiry, CCIB of CEDB and RVD in March 2020 said that:

Note 58: *According to RVD, the evaluation of departmental records management policies, practices and procedures (see para. 3.20(b)) commenced in April 2015 and the compliance assessment report was being finalised in September 2015. However, as GRS promulgated an updated guideline on the evaluation of ERKS in September 2015, the compliance assessment report had to be revised to take into account the then prevailing GRS requirements and was only finalised in February 2016.*

CCIB of CEDB

- (i) according to GRS guidelines, a B/D should make a request for dispensing with the print-and-file practice in its entire organisation in one go unless otherwise agreed by GRS in advance. ERKS had yet to be implemented in the entire organisation of CCIB. Create Hong Kong under CCIB was planning to implement its ERKS in 2021;
- (ii) although its ERKS had been migrated to OGCIO's base system since June 2019, more time was needed to observe its performance. The parallel run of the print-and-file practice and ERKS was therefore necessary to avoid disruption of record retention and should not be seen as a departure from GRS guidelines nor a delay in dispensing with print-and-file practice;
- (iii) plans were underway to seek GRS approval to dispense with print-and-file practice having regard to the stable performance of its ERKS;

RVD

- (iv) after the meetings with GRS in 2017, RVD had been heavily engaged in other priority work including the additional workload required for achieving the statutory commitment and assisting in the formulation of new policies, as well as other system development/enhancement projects; and
- (v) RVD approached GRS in January 2020 to stocktake the outstanding issues regarding the cessation of print-and-file practice with a view to working out a schedule for obtaining GRS's approval to dispense with the print-and-file practice as soon as practicable.

In Audit's view, there is a need to strengthen the system acceptance procedures to ensure that technical issues are identified and resolved prior to system rollout as far as practicable. CCIB of CEDB and RVD should work closely with GRS to dispense with the print-and-file practice, including addressing issues of non-compliance with functional requirements and Recordkeeping Metadata Standard, if any.

Audit recommendations

3.26 Audit has *recommended* that the Government Chief Information Officer should:

- (a) draw lessons from the implementation of common base system to improve the monitoring of contractors in the service-wide implementation of ERKS, including:**
 - (i) holding regular PSC meetings to provide strategic direction on project implementation; and**
 - (ii) in granting extension of time of target completion dates in ERKS projects for the remaining B/Ds in future, seeking the Department of Justice's advice on whether liquidated damages should be imposed, having regard to the contractor's performance and the loss to the Government arising from the project delay;**
- (b) closely monitor Contractor B's progress to ensure that ERKS for MD can be completed by the revised completion date of June 2021 and the errors identified are rectified as soon as possible; and**
- (c) take effective measures to ensure PIDRs of ERKS projects are submitted in a timely manner.**

3.27 Audit has *recommended* that the Director of Marine should:

- (a) strengthen the monitoring of ERKS project progress and hold regular PSC and PAT meetings to oversee Contractor B's performance; and**
- (b) require Contractor B to timely submit Project Progress Reports in accordance with the PID requirements.**

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3.28 **Audit has *recommended* that, in preparing for the service-wide implementation of ERKS, the Government Chief Information Officer, the Director of Administration and the Commissioner for Efficiency should:**

- (a) set up a mechanism to measure B/Ds' savings in paper/printing costs upon the cessation of the print-and-file practice;**
- (b) promote the good practice of early involvement of GRS in preparing for a timely cessation of the print-and-file practice; and**
- (c) strengthen the system acceptance procedures to ensure that technical issues are identified and resolved prior to system rollout as far as practicable.**

3.29 **Audit has *recommended* that the Secretary for Commerce and Economic Development should work closely with GRS to dispense with the print-and-file practice in CCIB.**

3.30 **Audit has *recommended* that the Commissioner of Rating and Valuation should work closely with GRS to dispense with the print-and-file practice in RVD offices which have implemented ERKS.**

Response from the Government

3.31 **The Government Chief Information Officer agrees with the audit recommendations in paragraph 3.26. He has said that:**

- (a) OGCIO is closely monitoring Contractor B's progress in rectifying the errors identified in the outstanding TIRs. In addition to weekly checkpoint meetings with the Contractor, OGCIO has been working closely with the Contractor to follow up on the outstanding issues; and**
- (b) monthly reminders are issued to remind B/Ds to submit PIDRs.**

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3.32 The Director of Marine agrees with the audit recommendations in paragraph 3.27. She has said that:

- (a) MD has strengthened the monitoring of ERKS project progress and scheduled regular PSC and PAT meetings for the remaining batches of implementation; and
- (b) on the request of MD, Contractor B has already submitted Project Progress Reports since September 2018. MD will continue to closely monitor the timely submission of reports by the Contractor.

3.33 The Government Chief Information Officer, the Director of Administration and the Commissioner for Efficiency agree with the audit recommendations in paragraph 3.28. The Director of Administration has said that:

- (a) regarding the audit recommendation in paragraph 3.28(a), EffO will work in collaboration with GRS to support the EIM Programme Management Office in setting up a mechanism to measure B/Ds' savings in paper/printing costs upon the cessation of the print-and-file practice; and
- (b) regarding the audit recommendations in paragraph 3.28(b) and (c), GRS:
 - (i) has been taking measures to support B/Ds in dispensing with the print-and-file practice. GRS has developed a "Manual on Evaluation of an Electronic Recordkeeping System" to assist B/Ds in evaluating and validating the ERKS and associated departmental records management policies, practices and procedures governing the use, management and maintenance of an ERKS in compliance with ERM standards and requirements;
 - (ii) has been working closely with OGCIO to facilitate B/Ds to dispense with the print-and-file practice through a streamlined two-stage validation approach. Specifically, in Stage 1, GRS will work with OGCIO to ensure that the base ERKS system can meet all the requirements set out in the ERM standards and requirements. In Stage 2, when B/Ds submit their applications to seek GRS's approval for dispensing with the print-and-file practice, GRS will request the B/Ds, among others, to demonstrate that their ERKSs

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meet the ERM standards and requirements and they have put in place associated departmental records management policies, practices and procedures. As GRS has already evaluated the base system in Stage 1, the B/Ds will only need to conduct the demonstration of their ERKSs on a smaller scale as compared with the ERKS developed by the five early adopters. The entire process will hence be shortened from three months to one month;

- (iii) has also taken measures to help B/Ds develop the associated departmental records management policies, practices and procedures governing the use, management and maintenance of an ERKS so as to facilitate their early cessation of the print-and-file practice. GRS has compiled a “Handbook on Records Management Practices and Guidelines for an Electronic Recordkeeping System” to provide guidance for B/Ds to adopt as their own practices and guidelines. GRS has also conducted briefings to assist B/Ds for this purpose. During the service-wide implementation of ERKS, GRS will be involved in the early stage for the development of the base system. This approach will help B/Ds take less time to meet GRS requirements when seeking approval for ceasing the print-and-file practice; and
- (iv) will continue to adopt the above facilitating and streamlining measures to facilitate B/Ds in evaluation of their ERKS for cessation of the print-and-file practice. GRS will also continue to provide training for B/Ds to develop their associated departmental records management policies, practices and procedures governing the use, management and maintenance of an ERKS. The early involvement of GRS during the base system development stage can also ensure that technical issues are identified and resolved prior to system rollout. Depending on the lead-time required by users to adapt to the new filing procedures under an ERKS environment, GRS believes most of the B/Ds can shorten the parallel run period and submit applications to seek GRS’s approval for dispensing with the print-and-file practice within six months following their implementation of ERKS.

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3.34 The Secretary for Commerce and Economic Development accepts the audit recommendation in paragraph 3.29. He has said that, with GRS latest agreement, CCIB of CEDB would arrange to dispense with the print-and-file practice of records by phases starting from September 2020.

3.35 The Commissioner of Rating and Valuation agrees with the audit recommendation in paragraph 3.30. He has said that:

- (a) RVD will continue to work closely with GRS to dispense with the print-and-file practice in its offices. It has been engaging GRS actively in resolving the technical problems with a view to fully complying with the functional requirements as stipulated by GRS; and
- (b) following two meetings held between RVD and GRS in March 2020, RVD will take necessary steps, in close consultation with GRS, to complete the system enhancements to the RVD's ERKS as soon as possible and aims at obtaining the approval from GRS to waive the print-and-file practice within 2020.

3.36 The Director of Administration agrees with the audit recommendations in paragraphs 3.29 and 3.30. She has said that:

- (a) GRS has been keeping close contact with CCIB of CEDB and providing it with all the necessary assistance in obtaining GRS's approval to dispense with the print-and-file practice. It is the aim to facilitate CCIB of CEDB to obtain GRS's approval to dispense with the print-and-file practice as early as possible and no later than September 2020; and
- (b) RVD and GRS held meetings on 11 and 17 March 2020 to discuss how the ERKS of RVD should be enhanced in order to meet the ERKS standards and requirements for cessation of the print-and-file practice. GRS would continue to liaise with RVD with a view to facilitating RVD to obtain GRS's approval to dispense with the print-and-file practice as early as possible within 2020.

System operation

3.37 *Audit examination of ERKS system operation.* Audit selected four B/Ds under the ERKS pilot programme (i.e. two from the early adopters (namely GRS and CCIB of CEDB) and two from the next-stage adopters (namely OGCIO and CEDD)) for examining the records management functionalities and practices in ERKS environment. Audit examination involved:

- (a) requesting selected B/Ds to provide Audit with read-only access rights to ERKS;
- (b) testing the retrieval functions of ERKS, such as sorting and searching of records;
- (c) examining the management reports generated from ERKS; and
- (d) analysing the metadata of records.

Areas for improvement in system operation

3.38 Audit examination of the ERKS in the four selected B/Ds has revealed the following areas for improvement:

- (a) *Failure to provide Audit with access rights to ERKS.* Audit was able to obtain read-only access rights to ERKS in all selected B/Ds except OGCIO. Upon Audit's enquiry, OGCIO in January 2020 said that access to its ERKS could not be provided to Audit because such requirement (i.e. creating accounts with read-only access rights for non-OGCIO users) had not been taken into account when designing the user profiles of OGCIO's ERKS. To facilitate Audit's examination, OGCIO provided Audit with a copy of records relevant to ERKS implementation together with a list of recordkeeping metadata (e.g. record title and record creation date). In Audit's view, the design of user profiles of OGCIO's ERKS does not meet audit requirements regarding obtaining reliable audit evidence efficiently

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through the system (Note 59). To enhance public accountability, OGCIO needs to: (i) remind B/Ds to fully take into account audit requirements in designing their ERKSs in the service-wide implementation of ERKS; and (ii) make necessary adjustments to the design of user profiles of OGCIO's ERKS to meet audit requirements as far as practicable;

- (b) ***Users with low usage.*** ERKS in all four selected B/Ds supported the generation of a management report to show statistical information on users' activities (the user access report). Audit examined the user access reports of the four B/Ds generated from December 2019 to January 2020 and found that while the design of the report in the four B/Ds was slightly different, the issue of low usage of some users was generally observed in all four B/Ds. For example, as of January 2020, 306 (30%) of 1,025 ERKS users in OGCIO and 105 (7%) of 1,500 ERKS users in CEDD were found not using ERKS for over one year. There is a need for GRS to remind B/Ds with ERKS to identify users with low usage and investigate the reasons for taking appropriate action; and
- (c) ***No guidelines on time limit for capturing records into ERKS.*** According to GRS guidelines, all records should be captured into ERKS as soon as practicable. All four B/Ds did not specify in their departmental guidelines the time limit to capture a record into ERKS. Audit analysis of the filing dates of e-mails in ERKS revealed that some e-mails were only captured into ERKS over three months after the sent/received date. For example, in 2019, 7,747 (22%) of 35,567 e-mail records in OGCIO and 3,792 (17%) of 22,700 e-mail records in CCIB of CEDB were captured over three months after the sent/received date. Audit analysis further found that among the 11,539 (i.e. 7,747 + 3,792) e-mails filed over three months after the sent/received date, 44% in OGCIO and 38% in CCIB of CEDB were captured into ERKS over one year after the sent/received date. There is a need for GRS to remind B/Ds with ERKS to formulate guidelines on the time limit to ensure timely filing of records into ERKS.

Note 59: *Since ERKS has built in security and access control functions, i.e. protecting records from inadvertent and unauthorised alteration, deletion, access and retrieval, as well as monitoring the integrity of records through audit trails, the audit evidence obtained by accessing records in ERKS directly is more reliable.*

Audit recommendations

3.39 Audit has *recommended* that the Government Chief Information Officer should, in order to enhance public accountability:

- (a) remind B/Ds to fully take into account audit requirements in designing their ERKSs in the service-wide implementation of ERKS; and**
- (b) make necessary adjustments to the design of user profiles of OGCIO's ERKS to meet audit requirements as far as practicable.**

3.40 Audit has *recommended* that the Director of Administration should remind B/Ds with ERKS to:

- (a) identify users with low usage and investigate the reasons for taking appropriate action; and**
- (b) formulate guidelines on the time limit for filing records into ERKS.**

Response from the Government

3.41 The Government Chief Information Officer agrees with the audit recommendations in paragraph 3.39.

3.42 The Director of Administration agrees with the audit recommendations in paragraph 3.40. She has said that:

- (a) the usage statistics set out in paragraph 3.38(b) show that some users may not have made use of the ERKS to capture or search records. This could be due to different reasons relating to the internal operation and division of responsibilities of the B/Ds concerned. For example, some records users may delegate their ERKS filing work to other members of the team or the filing registry. Retrieval of records from ERKS may also be done by other staff members. The number of records in ERKS of B/Ds under the pilot programme has been increasing gradually over the past years with a steady**

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growth rate. This shows that these B/Ds have been making active use of ERKS in keeping their records;

- (b) GRS has taken measures to support B/Ds in monitoring the operation and usage of ERKS. ERKS is equipped with functionalities for generation of different records management reports and audit logs for monitoring purpose. GRS has regularly reminded B/Ds to implement a departmental monitoring mechanism for their ERKSs through implementation guidelines and briefings for B/Ds. To further encourage more users to use ERKS, GRS will update these guidelines on a systematic monitoring approach e.g. through conducting surprise checks and surveys on usage of ERKS as part of their departmental monitoring mechanism. B/Ds will also be advised to organise more refresher training for their staff so as to familiarise them with the functionalities and operation of an ERKS; and
- (c) according to the existing records management principles, records should be captured as soon as possible. GRS will develop more specific guidelines for B/Ds to capture records under ERKS. For example, officers will be advised that under normal circumstances, records should be captured into ERKS within 30 days and under exceptional circumstances, records could be captured within three months.

Migration to central electronic recordkeeping system

Need to closely monitor operating costs and consider migration to central ERKS in due course

3.43 ***Sustainability of ERKS.*** The implementation or adoption of an ERKS by B/Ds is a mandatory requirement of the Government's EIM Strategy. Therefore, it is important to ensure that the implementation of ERKS in B/Ds is financially sustainable in the long run. In the first meeting of the Programme Steering Committee of the pilot programme for the next stage development of ERKS (see para. 3.8) held in December 2015, the Chairperson advised that B/Ds should strive to achieve savings after adoption of ERKS to ensure sustainability.

3.44 ***Discussions on the way forward for the pilot projects.*** During an EIM Steering Group meeting held in February 2019, the Government Chief Information Officer indicated that B/Ds under the pilot programme could still use their current

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ERKS solutions and might consider migration later when their current ERKS solutions became obsolete and due for replacement. Another member opined that careful consideration would be required for adopting different solutions in the long run because B/Ds would need to transfer records to GRS. According to GRS, technical solutions for transfer of records from B/Ds adopting different ERKS solutions would be considered in developing the digital repository (see para. 4.9(b)). It was expected that B/Ds would adopt the new solution if the operating or upgrade cost of their current ERKS solutions was higher than the migration cost.

3.45 ***High operating expenditure of pilot projects.*** Table 7 reveals that the annual operating expenditure of ERKS per user for the pilot projects in 2018-19 ranged from \$1,667 to \$35,714.

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Table 7

**Annual operating expenditure of ERKSs by B/Ds
(2018-19)**

Project	Number of users (a)	Annual operating expenditure (b) (\$ million)	Annual operating expenditure per user (c) = (b) ÷ (a) (\$)
EffO (Note)	210	2.2	10,476
GRS	130	2.7	20,769
CCIB of CEDB	70	2.5	35,714
RVD	100	0.7	7,000
DSD	992	2.3	2,319
Administration Wing	160	1.6	10,000
Project 1 - IPD	200	5.1	4,250
- OGCIO	1,000		
Project 2 - ArchSD	200	2.3	2,421
- MD	750		
Project 3 - CEDD	1,500	2.5	1,667

Source: Audit analysis of OGCIO records

Note: According to EffO, the annual operating expenditure covered the whole EIM system including ERKS. In addition to the users in EffO, the system was extended to cover Management Services Officers in other B/Ds.

In the service-wide implementation, to achieve economies of scale on software licences, and implementation and support costs, a single ERKS software solution will be adopted to develop the central ERKS for deployment to the remaining 75 B/Ds (see para. 2.2). The annual recurrent cost (including storage, network, processing power, software licence, maintenance and support) for each ERKS user is estimated to be about \$1,500. Given that the estimated annual recurrent cost of the central ERKS is much lower than that of pilot projects, B/Ds under the ERKS pilot programme should keep in view the merits of migrating to the central ERKS (see para. 3.25(a)(ii) for an example) when their ERKSs are due for replacement in future.

Audit recommendation

3.46 Audit has *recommended* that the Government Chief Information Officer, the Director of Administration and the Commissioner for Efficiency should jointly remind the 11 B/Ds under the ERKS pilot programme to keep in view the merits of migrating to the central ERKS when their ERKSs are due for replacement in future.

Response from the Government

3.47 The Government Chief Information Officer, the Director of Administration and the Commissioner for Efficiency agree with the audit recommendation. The Director of Administration has said that:

- (a) OGCIO, GRS and EffO appreciate the merits for the 11 B/Ds under the ERKS pilot programme to migrate to the central ERKS. To facilitate future migration, GRS has developed the “Recordkeeping Metadata Standard for the Government of the Hong Kong Special Administrative Region” to ensure that all ERKSs adopted by B/Ds will use appropriate and sufficient recordkeeping metadata in a consistent manner so as to help B/Ds export records with the required recordkeeping metadata from one ERKS to another; and
- (b) the EIM Programme Management Office will keep in view the need for migration of ERKS for the 11 B/Ds under the ERKS pilot programme to the central ERKS and continue rendering all the necessary support to B/Ds for the migration.

PART 4: ARCHIVING OF ELECTRONIC RECORDS

4.1 This PART examines the archiving of electronic records, focusing on:

- (a) long-term preservation of electronic records (paras. 4.2 to 4.15); and
- (b) archiving of government records on websites and social media platforms (paras. 4.16 to 4.19).

Long-term preservation of electronic records

4.2 ***Life cycle of records.*** According to GRS, the whole life cycle of records management encompasses the creation and collection, classification, scheduling and final disposal of records, records transfer, and public access to archival records. In view of constantly changing technology, a robust life-cycle management approach should be taken to manage and preserve electronic records once they are created or received. According to their respective stages in the life cycle, records can be categorised into the following:

- (a) ***Active records.*** Active records refer to records frequently used for current business and therefore should be maintained in their place of origin or receipt;
- (b) ***Inactive records.*** Inactive records refer to records which are no longer required or rarely required for the conduct of business or reference; and
- (c) ***Archival records.*** Archival records, or archives, refer to records which are appraised to have archival value for permanent preservation by GRS. These records need to be transferred by B/Ds to GRS for permanent retention.

4.3 ***Importance of long-term preservation of electronic records.*** According to GRS, long-term preservation of electronic records is necessary to ensure that electronic records are authentic, complete, accessible, identifiable, understandable and usable for as long as they are required to serve legal, regulatory, business and

archival requirements. To achieve that, it is necessary to formulate government-wide policy and strategies for preserving electronic records over time.

Progress in conducting the comprehensive study

4.4 ***Preliminary study.*** In October 2009, GRS, EffO and OGCIO completed a review of ERKS pilot project (see para. 1.8). The review identified the need for further work, which included studies on strategies and technical solutions for long-term preservation of electronic records. With the promulgation of the Government EIM strategy in 2011, the studies on long-term preservation of electronic records became one of the central initiatives under the EIM Programme (see para. 1.9). In view of the magnitude and complexity of the comprehensive study, a task force comprising members from GRS and OGCIO conducted a preliminary study from February 2012 to January 2013 to:

- (a) study experience of overseas countries in dealing with preservation of electronic records;
- (b) gauge the business needs of B/Ds to preserve electronic records to meet legal, regulatory, business and evidence needs;
- (c) identify the archival needs of GRS in preserving archival records in electronic form; and
- (d) define the scope of the comprehensive study.

The key activities of the preliminary study included: (i) a government-wide survey on preservation of electronic records in B/Ds; and (ii) studies focused on the policies, strategies, standards, practices and technical solutions for long-term preservation of electronic records and archival records in electronic form of four overseas countries, namely Australia, New Zealand, the United Kingdom and Singapore.

4.5 ***Slow progress in conducting the comprehensive study.*** According to the original plan submitted to the EIM Steering Group in 2011, the comprehensive study on long-term preservation of electronic records was scheduled to commence in May 2013 for completion in December 2014. Audit found that the progress of the comprehensive study was slow. Compared with the original target completion date

of December 2014, the revised target completion date set by the EIM Programme Management Office as of October 2019 was May 2021, representing a delay of about 6 years. Given that 11 B/Ds have implemented ERKS since 2010 (see paras. 3.2 and 3.4), the need for transfer of electronic records with archival value from B/Ds to GRS for permanent retention will arise in the near future. Hence, there is a need to step up efforts to avoid further delay. Audit examined GRS and OGCIIO records in connection with the comprehensive study and found that the delay was mainly attributable to the following:

- (a) deferral in commencement due to competing priorities (para. 4.6);
- (b) change in study approach (paras. 4.7 to 4.9); and
- (c) long time taken in preparatory work (paras. 4.10 to 4.12).

Deferral in commencement due to competing priorities

4.6 ***Suspension of the original plan.*** In February 2013, the EIM Programme Management Office reported in the monthly progress report that:

- (a) the task force had completed the scoping requirements of the comprehensive study;
- (b) having regard to the competing demands on expertise and skilled manpower resources in records management, archival administration and IT in taking forward EIM, the Administration Wing would review the timing for conducting the comprehensive study during the review of the EIM Programme scheduled for 2014; and
- (c) if appropriate, the Administration Wing would work out the actual timetable of the comprehensive study nearer the time.

As a result, the original plan with defined timeframe (i.e. to conduct the comprehensive study from May 2013 to December 2014) was replaced by a revised plan with no specified timeframe. Audit found that the preparatory work for the comprehensive study only resumed in March 2017, some four years after the completion of the preliminary study in January 2013.

Change in study approach

4.7 ***Original scope of the comprehensive study.*** In March 2017, GRS and OGCIO agreed on the scoping of the comprehensive study, which was to be conducted in two phases, as follows:

- (a) ***Phase 1.*** The study would focus on the development of policies, strategies, standards and guidelines on long-term preservation of electronic records and study of challenges on preservation of electronic records in B/Ds; and
- (b) ***Phase 2.*** The study would identify technical issues and recommend solutions to manage and preserve archival materials in electronic forms managed by and stored in GRS, including feasibility of setting up of a digital archive in GRS for preservation of archival materials in electronic forms.

4.8 ***Request for information exercise.*** GRS and OGCIO conducted a request for information exercise for the comprehensive study in March 2017. While 65 potential consultancy service providers were invited, only four responded to the request for information exercise. The proposals from two local consultants were considered irrelevant, whereas the other two consultants from overseas only indicated interest in the Phase 1 study.

4.9 ***Revised study approach.*** Having regard to the result of the exercise, GRS and OGCIO agreed in May 2017 to a revised approach in pursuing the comprehensive study on the assumption that the projects could commence in April 2018 upon approval of funding from CWRP:

- (a) ***Phase 1 study.*** Phase 1 study would be pursued first with a target completion date in the second quarter of 2020;
- (b) ***Setting up of a digital repository.*** Since no potential consultancy service provider had indicated interest in the Phase 2 study, GRS and OGCIO would set up a digital repository as an interim solution to cater for the potential transfer of electronic records from B/Ds to GRS in near future (see para. 4.2(c)). The target completion date was the first quarter of 2019; and

- (c) ***Long-term strategy for setting up digital archive.*** After gaining experience from the operation of the digital repository and having regard to future advancement in IT and development of international best practices on preservation of digital records, GRS would then work out the long-term strategy for setting up a digital archive.

Long time taken in preparatory work

4.10 ***Phase 1 study.*** The implementation progress of the Phase 1 study is as follows:

- (a) ***Funding approval.*** In June 2018, a funding of \$7.2 million from CWRF was approved to pursue the Phase 1 study;
- (b) ***Drafting of consultancy brief.*** GRS commenced drafting the consultancy brief in September 2017. The drafting of consultancy brief encompassed the process of collecting and incorporating comments from OGCIO and GRS's internal users as well as seeking legal advice from the Department of Justice. The process was completed in December 2018. In January 2019, approval was obtained from the Departmental Consultants Selection Committee of the Chief Secretary for Administration's Office enabling GRS to commence procurement of consultancy service;
- (c) ***Procurement of consultancy service.*** In January 2019, GRS invited proposals from 64 consultancy service providers and one proposal was received by the deadline of February 2019. Approval to appoint the consultancy service provider was granted by the Departmental Consultants Selection Committee of the Chief Secretary for Administration's Office in May 2019; and
- (d) ***Latest known position.*** As of October 2019, GRS was in the course of finalising the consultancy agreement, GRS planned to commence the Phase 1 study by end of 2019, with the consultancy service provider conducting its first on-site visit in March 2020. The target completion date of Phase 1 study was postponed from the second quarter of 2020 to May 2021.

4.11 *Setting up of digital repository.* The progress of implementing a digital repository is as follows:

- (a) *Preparatory work for procurement.* In August 2017, GRS started the preparatory work for procurement of service (i.e. research on service providers and drafting of tender specifications) for setting up the digital repository. Ten potential service providers from overseas were identified. In April 2018, after a discussion between GRS and OGCI, it was decided that to expedite the procurement process, an off-the-shelf software product would be procured through direct purchase authority, instead of tender exercise in the original plan, as the cost of the product would likely to be less than \$1.4 million (Note 60). GRS then revised the specifications and circulated the same to OGCI and among GRS's internal users for comments. As the procurement process would only commence after obtaining funding approval, GRS postponed the target completion date from the first quarter of 2019 to end of 2019;
- (b) *Funding approval.* In December 2018, CWRP funding approval was obtained;
- (c) *Procurement of software product.* In February 2019, GRS issued an invitation for proposals and one proposal was received by the deadline of March 2019. As the price quoted by the supplier exceeded the limit of \$1.4 million, GRS commenced price negotiation with the supplier in mid-2019 and further postponed the target completion date to April 2020; and
- (d) *Latest known position.* In August 2019, GRS received a revised quotation within the quotation limit from the supplier. The project commenced in October 2019 with a target to complete in June 2020.

4.12 Audit noted that GRS had taken a long time on the preparatory work for implementing the long-term preservation of electronic records. In Audit's view, GRS

Note 60: According to the Stores and Procurement Regulations, procurement of stores and services with value above \$1.4 million should be conducted by tender.

needs to closely monitor the progress of the Phase 1 study and the setting up of the digital repository.

Preservation of electronic records in B/Ds

4.13 **2012 government-wide survey.** As part of the preliminary study on the preservation of electronic records (see para. 4.4), GRS and OGCIIO jointly conducted a government-wide survey (covering a total of 74 B/Ds and offices) in 2012 to gauge the need for preservation of electronic records in B/Ds and assess the effectiveness of current preservation measures adopted by B/Ds. The survey found that:

- (a) 69 (93%) of 74 B/Ds and offices had to manage and keep some of their electronic records for a further period of seven years or longer;
- (b) 409 (46%) of 896 information systems that were used to manage and/or store electronic records for a further period of seven years or longer had not been upgraded, enhanced or re-developed since their live-run, and 204 (42%) of the remaining 487 upgraded systems did not possess built-in functionality to preserve electronic records;
- (c) only 27 (36%) B/Ds and offices had conducted file format migration for their electronic records in the past seven years; and
- (d) of 49 B/Ds and offices that had managed and/or stored electronic records in offline storage media, only 15 (31%) of them had conducted media renewal and/or media migration to preserve electronic records stored in offline storage media.

Based on the survey results, GRS and OGCIIO considered that there was a clear business case for B/Ds to take timely and proper measures to preserve electronic records, and that the awareness of proper preservation of electronic records should be enhanced.

4.14 **Promulgation of a guideline on preservation of electronic records.** Against the background of the 2012 government-wide survey, GRS promulgated a guideline entitled “A Handbook on Preservation of Electronic Records” in July 2013 for reference by B/Ds in adopting proper measures and practices to preserve electronic

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records. According to the Handbook, B/Ds should formulate a viable departmental preservation programme to ensure that sufficient resources and attention will be accorded to preserving electronic records timely and effectively. The Handbook also sets out 10 general good practices and measures to preserve electronic records including migration of obsolete file formats to another format, and regular review of offline storage media.

4.15 *Need to ascertain progress made by B/Ds in improving preservation of electronic records.* Audit noted that since the promulgation of the Handbook in July 2013, GRS had not regularly ascertained the progress made by B/Ds in improving their measures and practices in preserving electronic records (e.g. whether or not the B/Ds have implemented a departmental preservation programme). In view of the service-wide implementation of ERKS, the volume of government electronic records is expected to grow at a fast pace (see para. 1.3). In Audit's view, GRS should consider setting up a mechanism to regularly monitor B/Ds' practices in preserving electronic records.

Archiving of government records on websites and social media platforms

4.16 *Government use of websites and social media.* The use of government websites on the Internet is an efficient and effective way for dissemination of information. All B/Ds have set up their own websites to disseminate information. The Government has also set up a one-stop portal, the GovHK (www.gov.hk), which hosts a wide range of information and services most frequently sought by the public. In recent years, the use of social media, which refers to the use of web-based platforms, applications and technologies to enable users to socially interact with each other online, has become popular. Senior government officials and B/Ds are also using social media to disseminate information and interact with members of the public.

Areas for improvement in archiving of government websites and social media accounts

4.17 *Absence of standards and guidelines on archiving of government records on websites.* Audit examined the standards and guidelines on ERM promulgated by GRS and found that there was a lack of guidelines on management and archiving of records in government websites or social media platforms. For example, according

to the GRS guideline entitled “A Handbook on Records Management Practices and Guidelines for an Electronic Recordkeeping System”, it does not cover the management of records in the web environment (i.e. government websites and social media accounts). While OGCIO has promulgated guidelines on government websites, the guidelines mainly cover IT aspects such as security, design and accessibility.

4.18 ***Overseas practices.*** Audit research on archiving of government websites and social media accounts in some overseas jurisdictions has revealed that web archiving initiatives have been implemented by national archives/libraries or in collaboration with non-governmental organisations (e.g. universities) in overseas jurisdictions for quite some time. The archived government websites and/or social media accounts are usually accessible by the public through dedicated websites established by the respective national archives/libraries. Table 8 shows a few examples of web archiving initiatives in overseas jurisdictions.

Table 8
Web archiving initiatives in four overseas jurisdictions
(2003 to 2011)

Overseas jurisdiction	Year of commencement	Content archived
The United Kingdom	2003	Government websites and official social media accounts
Singapore	2006	Domain and selective archiving of websites with a focus on Singapore content, including government websites
The United States	2008	All federal government websites in the legislative, executive and judicial branches of government
Australia	2011	Commonwealth government websites

Source: Audit’s Internet research

4.19 ***Need to formulate long-term strategy for web archiving.*** Up to February 2020, the Government did not have a centralised web archive of all government websites and/or official social media accounts, similar to the ones in overseas jurisdictions mentioned above. In this connection, Audit noted that:

Archiving of electronic records

- (a) in November 2014, OGCIO conducted a study on web archiving which found that B/Ds would back up and archive contents of websites according to their individual needs; and
- (b) in 2018, GRS commenced a pilot project on web archiving of government websites. A service provider was engaged to conduct archiving of selected government websites during the six-month period from August 2018 to January 2019.

In response to Audit's enquiry, in February 2020, GRS said that the experience gained in the pilot project would allow GRS to: (i) make a realistic estimation on the cost of the initiative, including the web harvesting service cost and the storage cost; and (ii) determine whether the web archiving task should better be conducted in-house or by outsourced contractors as well as the approach to store the archived web contents. GRS was consolidating the experience from this pilot project and had yet to formulate the long-term strategy for web archiving in the Government. In Audit's view, as Hong Kong is lagging behind other overseas jurisdictions in archiving of government websites and social media accounts, there is a need to formulate a long-term strategy for web archiving in the Government. There is also a need to promulgate guidelines on management of electronic records in web environment.

Audit recommendations

4.20 **Audit has *recommended* that the Director of Administration should:**

- (a) **step up efforts to complete the comprehensive study on long-term preservation of electronic records;**
- (b) **consider setting up a mechanism to regularly monitor B/Ds' practices in preserving electronic records; and**
- (c) **formulate a long-term strategy for web archiving in the Government and promulgate guidelines on management of electronic records in web environment.**

Response from the Government

4.21 The Director of Administration agrees with the audit recommendations. She has said that:

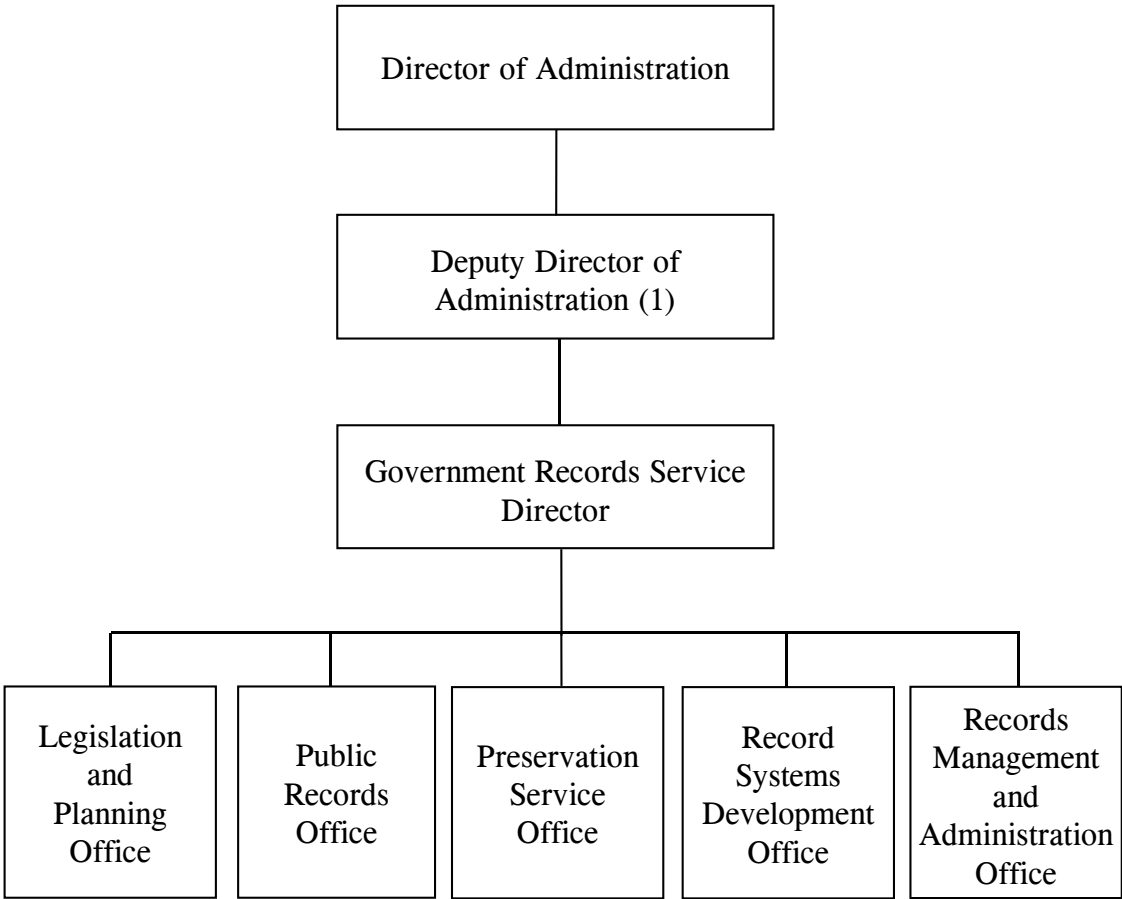
- (a) regarding the audit recommendation in 4.20(a):
 - (i) GRS has been working closely with OGCI0 in planning and defining the scope of the comprehensive study on long-term preservation of electronic records. According to the research conducted by GRS, overseas archival authorities have encountered different problems in ensuring the long-term accessibility of digital archival records despite the significant resources they have devoted to identifying solutions;
 - (ii) one of the major problems is that digital records can appear in different file formats and can be kept in different media. As the number of file formats is evolving, it is difficult to find one single file format for preserving the digital archival records to ensure their long-term accessibility. As a result, if any file format becomes obsolete, it is necessary to migrate the digital records from the old format to a new format and the whole migration process has to be properly documented to maintain the authenticity and reliability of the records. Besides, even when the digital records are kept in a trusted storage medium with full backup, it is necessary to conduct periodic checks to ensure the integrity of the records and to prevent any loss of information in the records;
 - (iii) as explained in paragraph 4.6, it was decided not to commence the study before 2015 having regard to the need to accord priority and concentrate resources for implementation of the ERKS pilot projects. Subsequently, GRS resumed action in April 2016 to prepare the revised scope and implementation timetable for the comprehensive study. GRS then conducted a request for information exercise to gauge the availability of consultancy firms for the study in March 2017, followed by a funding application exercise and a procurement exercise;

Archiving of electronic records

- (iv) owing to the longer-than-expected lead time required for seeking funding and completion of the necessary tendering procedures, GRS commenced Phase 1 of the comprehensive study in November 2019 and the plan is to complete the study by mid-2021. GRS will closely monitor the progress of the comprehensive study to ensure that it is completed on time; and
 - (v) GRS appreciates the need for proper preservation of electronic records in B/Ds. The comprehensive study will help develop comprehensive guidelines to facilitate B/Ds' preservation of their electronic records. Selected B/Ds will be invited to meet the consultant on their needs and concerns on preservation of electronic records. GRS will keep in view the recommendations from the consultant on the Government's policy and strategy for the long-term preservation of electronic records and will develop detailed guidelines for B/Ds as appropriate;
- (b) regarding the audit recommendation in paragraph 4.20(b), GRS will set up a mechanism to monitor B/Ds' practices in preserving electronic records including conducting surveys and on-site visits to B/Ds on a regular basis; and
- (c) regarding the audit recommendation in paragraph 4.20(c):
- (i) web archiving is the process of collecting web contents of websites and preserving the collections in an archive format for access and use. According to the research conducted by GRS into those overseas jurisdictions which have started their work on website archiving, many of them had to substantially scale back their work in view of the significant costs involved in conducting web harvesting and storing the archived websites;
 - (ii) in addition, the remote harvesting technology has technical limitations and those webpages with dynamic contents (i.e. websites with video and audio streaming or interface with internal business IT systems), or hyperlinks to other websites, may result in missing links in the archived websites. To cope with the above challenges, different jurisdictions adopted different approaches in conducting their web archiving activities; and

- (iii) to keep pace with the archives in overseas jurisdictions to preserve web contents of government websites as archive collections, GRS adopted a prudent approach and conducted a pilot project on archiving of Government websites in 2018. GRS is in the process of consolidating the experience from the pilot project. As the archiving of government websites is technically complex and involves substantial investment on a long-term basis, GRS will carefully assess the prevailing technology for remote harvesting of websites and cost implications before formulating the long-term strategy for web archiving in the Government.

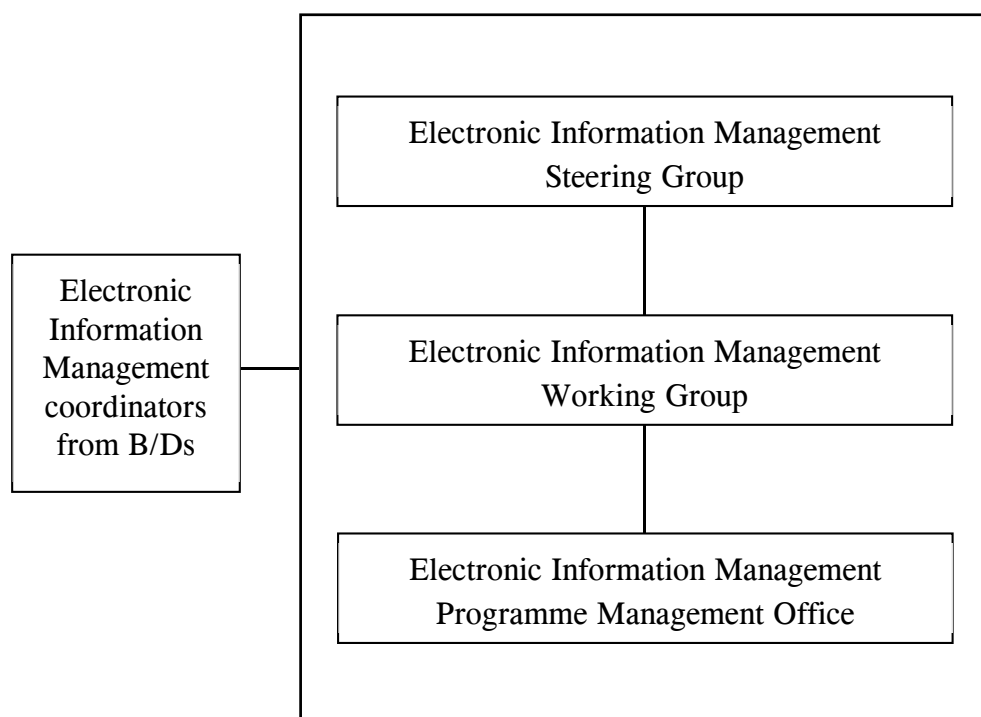
**Government Records Service:
Organisation chart (extract)
(31 December 2019)**



Source: GRS records

**Governance structure of the
Government's Electronic Information Management Programme
(31 December 2019)**

Central governance body (Note)



Source: OGCIO records

Note: The central governance body comprises members from OGCIO, the Administration Wing of the Chief Secretary for Administration's Office and EffO. External domain experts are also engaged in the work of the Programme Management Office.

Acronyms and abbreviations

ArchSD	Architectural Services Department
Audit	Audit Commission
B/Ds	Bureaux/departments
CCIB	Communications and Creative Industries Branch
CEDB	Commerce and Economic Development Bureau
CEDD	Civil Engineering and Development Department
CMMP	Centrally Managed Messaging Platform
CWRF	Capital Works Reserve Fund
DSD	Drainage Services Department
EffO	Efficiency Office
EIM	Electronic Information Management
ERKS	Electronic recordkeeping system
ERM	Electronic records management
GovCloud	Government Cloud Infrastructure
GovHRMS	Government Human Resources Management Services
GRS	Government Records Service
IPD	Intellectual Property Department
IT	Information technology
ITSC	Information Technology Steering Committee
MD	Marine Department
OGCIO	Office of the Government Chief Information Officer
PAT	Project Assurance Team
PID	Project Initiation Document
PIDR	Post Implementation Departmental Return
PSC	Project Steering Committee
RVD	Rating and Valuation Department
TB	Terabyte
TIR	Test incidents report

GOVERNMENT'S EFFORTS IN IMPLEMENTING ELECTRONIC RECORDKEEPING SYSTEM

Executive Summary

1. Records are valuable resources of the Government to support evidence-based decision-making and meet operational and regulatory requirements, and are essential for an open and accountable government. Development of information technology (IT) and the widespread use of network computers to conduct government business have resulted in an exponential growth of electronic records (an increase of 224% from 2015 to 2018), which have a vulnerable nature (e.g. fragility of storing media and ease of manipulation) and present unique challenges for bureaux/departments (B/Ds) in managing them. The implementation of electronic recordkeeping system (ERKS) is a Government initiative to pursue electronic records management. ERKS is an information/computer system to electronically collect, organise, classify and control the creation, storage, retrieval, distribution, maintenance and use, disposal and preservation of records throughout the life cycle of records.

2. In 2009, an Electronic Information Management (EIM) Steering Group comprising senior officials from the Office of the Government Chief Information Officer (OGCIO), the Administration Wing of the Chief Secretary for Administration's Office, and the Efficiency Office (EffO) was established to steer the government-wide EIM strategy and implementation. According to the EIM Strategy and Framework promulgated by OGCIO in 2011, all B/Ds should adopt an ERKS which complies with the functional requirements developed by the Government Records Service (GRS) under the Administration Wing. Up to March 2019, 11 B/Ds (with about 5,500 users) had fully or partially implemented ERKS under an ERKS pilot programme. In early 2019, GRS, EffO and OGCIO jointly completed a review which confirmed that the adoption of ERKS could bring about intangible benefits (e.g. reduce risk of inadvertent loss of records) and financial benefits (e.g. reduced need for storage space for paper files). In October 2019, the Policy Address Supplement announced the Government's decision to roll out ERKS to all government B/Ds by end-2025 to enhance efficiency in preserving and managing government records. The

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Audit Commission (Audit) has recently conducted a review to examine the Government's efforts in implementing ERKS.

Planning for the service-wide implementation of electronic recordkeeping system

3. The service-wide implementation of ERKS from mid-2021 to end-2025 will cover 75 B/Ds. They were required to submit to OGCIO their implementation plans by end-December 2019, including a timetable for adoption of ERKS. In planning the service-wide implementation of ERKS, a number of planning issues need to be taken into consideration (paras. 2.2, 2.4 and 2.13).

4. ***Submission of implementation plans by B/Ds.*** To ensure that adequate and timely support is provided to all B/Ds, OGCIO will review individual plans with the concerned B/Ds and adjust the timetable as necessary so that an average of around 15 B/Ds will implement ERKS each year (para. 2.4). Audit examination on the submission of implementation plans has revealed the following areas for improvement:

- (a) ***Delay in submission of implementation plans.*** In August 2019, the EIM Programme Management Office (which comprised members from OGCIO, GRS and EffO) under the EIM Steering Group invited all bureaux to coordinate the ERKS implementation plans for submission by end-December 2019. However, up to 6 February 2020, 17 (23%) of 75 B/Ds had not submitted their implementation plans (paras. 1.9, 2.6 and 2.7);
- (b) ***Need to review implementation plans with B/Ds.*** For the implementation plans submitted by the 58 B/Ds, Audit found that: (i) one B/D reported that full rollout by 2025 would not be achievable; and (ii) the implementation work for the B/Ds would not be spread out evenly over the period from mid-2021 to end-2025. There would be a large number of B/Ds (i.e. some 80% of the B/Ds) commencing ERKS implementation from 2022 to 2024 (around 16 B/Ds each year) and a small number of B/Ds commencing ERKS implementation in mid-2021 (2 B/Ds) or in 2025 (10 B/Ds) (para. 2.8); and

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- (c) ***Need to enhance management oversight by B/Ds to support ERKS implementation.*** ERKS implementation requires strong commitment from the top management of B/Ds. According to the EIM Strategy and Framework, an EIM coordinator at directorate level should be appointed in each B/D to liaise with the EIM Steering Group via the EIM Programme Management Office on policy issues and matters of EIM. Audit found that: (i) 10 (13%) of 75 B/Ds involved in the service-wide implementation of ERKS had appointed non-directorate level staff as their sole EIM coordinators; and (ii) 59 (70%) of 84 EIM coordinators for the 75 B/Ds had not attended in person the briefing sessions on ERKS implementation for directorate staff in July and August 2019 (paras. 2.9 and 2.10).

5. ***Issues involved in planning service-wide implementation of ERKS.*** In the course of examining the implementation work of ERKS, Audit has identified the following issues which should be taken into consideration in planning the service-wide implementation of ERKS (para. 2.13):

- (a) ***Electronic management of personnel records.*** A number of B/Ds do not have dedicated IT systems to manage their human resources processes and need to keep personnel records on papers. According to GRS, personnel records should best be handled by the Government Human Resources Management Services (GovHRMS), which is a central IT system developed by OGCIO to handle human resources management operations. In view of a number of practical issues, GRS advised B/Ds with ERKS to continue to manage their personnel records in paper files pending the full implementation of GovHRMS. However, Audit has noted that GovHRMS is only for adoption by B/Ds on a voluntary basis (i.e. no plan of full implementation in all B/Ds). There is a need to consider the way forward for the electronic management of personnel records by B/Ds (paras. 2.15 and 2.16);
- (b) ***Remote access to confidential records.*** While ERKS supports the capturing of confidential records, it does not support remote access to confidential records in light of the requirements stipulated in the Government Security Regulations (i.e. a user can only retrieve confidential records in ERKS when connected to government network in government offices). In Audit's view, supporting remote access to ERKS records at confidential level will facilitate easy retrieval of confidential records by staff when working at

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locations other than in government offices with connection to government network (e.g. working from home when warranted by special circumstances). There is a need to critically evaluate the feasibility of providing remote access to confidential records for the service-wide implementation of ERKS (paras. 2.17 and 2.18);

- (c) ***Replacement of government e-mail system.*** According to GRS guidelines, it is a mandatory requirement that ERKS must enable integration with an e-mail system to facilitate record capturing. In this connection, a new e-mail system for 24 B/Ds in the Central Government Offices and their sub-offices has been scheduled for implementation by December 2020. As the service-wide implementation of ERKS will commence in mid-2021, ERKS will be integrated with the new e-mail system for the 24 B/Ds. For the remaining departments, the implementation plan for the new e-mail system is being planned and ERKS will be integrated with the existing e-mail systems first. To avoid duplication of efforts, it is more desirable if the implementation of ERKS and the new e-mail system can be synchronised as far as practicable (paras. 2.19 and 2.21); and
- (d) ***Manual data input efforts in using ERKS.*** As the e-mail system is integrated with ERKS, most metadata of records (e.g. time and date, title, sender and recipients of an e-mail) can be automatically captured. For records other than e-mails, users are required to input most metadata of records into ERKS manually. Such manual data input efforts are prone to omissions and errors. There is a need to take measures to reduce the extent of manual efforts required to input data into ERKS, including: (i) promoting the wider use of workflow functions in ERKS, which are optional requirements of an ERKS to facilitate the automation of records management activities; and (ii) keeping in view the latest technological development in electronic records management (para. 2.22).

Implementation of electronic recordkeeping system pilot programme

System development

6. ***ERKS pilot programme.*** The ERKS pilot programme included 11 B/Ds (see para. 2), comprising five early adopters (EffO, GRS, the Communications and Creative Industries Branch (CCIB) of the Commerce and Economic Development

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Bureau (CEDB), the Drainage Services Department, and the Rating and Valuation Department (RVD)) and six next-stage adopters (the Administration Wing, the Civil Engineering and Development Department (CEDD), the Intellectual Property Department, the Architectural Services Department (ArchSD), the Marine Department (MD), and OGCIO). The five early adopters procured commercial off-the-shelf software packages with certain customisation work for ERKS implementation while the six next-stage adopters implemented ERKS by way of a common/shared service platform managed by OGCIO. Audit noted that there were delays in 8 out of the 11 projects under the ERKS pilot programme. Among the five early adopters, with implementation completed, CCIB of CEDB had the longest delay (18 months), mainly due to longer time taken for resolving technical problems. For the six next-stage adopters, as of December 2019, implementation had been completed except the one for MD, which was anticipated to be completed in June 2021. Audit selected the MD's ERKS implementation for review (paras. 3.2, 3.4 and 3.10).

7. ***Delay in implementation of ERKS common base system and system deployment for MD.*** In November 2015, OGCIO awarded a contract at a total cost of \$36.3 million for implementing the ERKS base system and system deployment for MD (and also ArchSD) to a contractor (the Contractor). The common base system was planned to be ready for deployment to MD in May 2016. In order to speed up progress, in June 2017, OGCIO approved the Contractor's proposal of dividing the common base system functions into core functions and remaining functions. In September 2017, the common base system was deployed to MD for testing when the core functions of the system were ready. In August 2019, the whole common base system was completed when all the core and remaining functions were ready for use. For MD's system deployment, it comprised 4 batches involving different user sections/units. As of February 2020, only Batch 1 had been implemented. As compared with the target completion date of January 2018, Batch 1 system deployment was only completed in August 2019 with a delay of 19 months. As of December 2019, the completion of the whole system deployment was planned to be completed in June 2021 (paras. 3.6 and 3.10 to 3.12).

8. ***Lessons to be learnt to improve future service-wide ERKS implementation.*** Audit examination revealed that the main reason for delay in implementing the common base system and the subsequent system deployment to MD was the unsatisfactory performance of the Contractor. According to MD, a premature base system was deployed for testing by MD, as evidenced by the substantial number of errors identified in the user acceptance test and the large number of errors which took a long time to fix. According to OGCIO, it had closely monitored the Contractor's

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progress in developing the system and rectifying identified issues. From September 2016 to June 2017, OGCIO issued seven warning letters to the Contractor on its unsatisfactory performance including severe schedule slippage, loose management and inadequate staff resources (para. 3.13). Audit examination has revealed the following areas for improvement:

- (a) ***Need to seek legal advice about imposing liquidated damages.*** According to the contract provision, liquidated damages can only be imposed if the Contractor fails to supply and deliver the System in Ready for Use condition (i.e. put into live-run) by the completion date. Audit noted that when OGCIO endorsed the extension of the target completion date of the whole system to June 2021, OGCIO had not imposed liquidated damages on the Contractor. While having sought the Department of Justice's advice on the termination of contract and the consequence of accepting a revised implementation plan, OGCIO (as the contract administrator) did not seek specific legal advice about imposing liquidated damages (\$2 million) before approving the extension of completion date, despite the unsatisfactory performance of the Contractor (para. 3.15);
- (b) ***Inadequacies in monitoring project progress.*** There were inadequacies in project monitoring by OGCIO and MD: (i) OGCIO has set up a two-tier project governance structure comprising a Project Steering Committee (PSC) and a Project Team to oversee the common base system development of ArchSD and MD. However, only two OGCIO PSC meetings (in December 2015 and June 2016) had been held. From July 2016 to August 2019, no PSC meetings had been conducted to provide timely strategic guidance on project implementation issues including the termination of contract or imposition of liquidated damages; and (ii) MD adopted a three-tier project governance structure, comprising a PSC, a Project Assurance Team (PAT) and a Project Team, to oversee the implementation of system deployment of the ERKS Project. Since January 2017, PSC and PAT had only held one meeting in August 2019 for endorsing the revised rollout date of Batch 1 system deployment (paras. 3.16 and 3.17); and
- (c) ***Long time taken in fixing errors identified in critical test incidents reports (TIRs).*** When errors were found in the testing of the common base system and system deployment, they were recorded in TIRs for subsequent rectification by the Contractor as a quality assurance. For the user acceptance test and training stage of Batch 1 of system deployment from

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September 2017 to October 2019, there were a total of 765 TIRs identified by MD. To expedite the rectification of TIRs, MD and the Contractor agreed to tackle critical TIRs (i.e. urgent and high-priority cases) first. Audit analysis revealed that among the 479 TIRs (111 (urgent) + 368 (high priority)) having been classified as urgent/high priority, the Contractor took 92.4 days (ranging from 0.6 to 518.5 days), on average, to fix the errors identified in the TIRs. Furthermore, out of the 765 TIRs, 246 (32%) failed the required testing one or more times, ranging from 1 to 14 times. As of February 2020:

- (i) the total number of outstanding TIRs for the common base system was 191, including 7 urgent/high-priority cases and 184 normal/low-priority cases; and
- (ii) the total number of outstanding TIRs for MD's system deployment was 78, including 2 urgent/high-priority cases and 76 normal/low-priority cases (para. 3.13(b)).

9. ***Inadequacies in preparing and submitting Post Implementation Departmental Returns (PIDRs).*** B/Ds are required to submit PIDRs to OGCI0 six months after the projects are in operation. As of January 2020, PIDRs of 10 completed projects were due for submission. Of the 10 PIDRs, despite the issue of monthly reminders by OGCI0, 8 were submitted late or still outstanding. The delay ranged from 1 to 23 months. Moreover, Audit found that all B/Ds reported in PIDRs that savings in paper/printing costs had been or would be realised. However, as the time needed to dispense with the print-and-file practice (see para. 10) varied, some B/Ds had not yet dispensed with the print-and-file practice at the time of submitting PIDRs (paras. 3.9, 3.18 and 3.19).

10. ***Long time taken in dispensing with print-and-file practice.*** B/Ds which have fully implemented a proper ERKS should seek the prior approval of GRS before dispensing with the practice of print-and-file of e-mail records as required by General Circular No. 2/2009. As of December 2019, 4 of the 11 B/Ds under the ERKS pilot programme had not yet dispensed with the print-and-file practice. While ArchSD and MD only launched ERKS recently, CCIB of CEDB and RVD rolled out ERKS in 2014 and have been adopting a parallel run of ERKS and print-and-file practice for over five years. The prolonged parallel run created additional workload to users in managing records and resulted in omission in filing. Audit found that the prolonged

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parallel run was mainly attributable to technical problems encountered after the system rollout. The two B/Ds should work closely with GRS to dispense with the print-and-file practice (paras. 1.7, 3.20, 3.22 and 3.25).

System operation and migration to central electronic recordkeeping system

11. Audit selected four B/Ds under the ERKS pilot programme (GRS, CCIB of CEDB, OGCIO and CEDD) for examining the records management functionalities and practices in ERKS environment and found the following areas for improvement (para. 3.37):

- (a) ***Failure to provide Audit with access rights to ERKS.*** Audit was able to obtain read-only access rights to ERKS in all selected B/Ds except OGCIO because such requirement (i.e. creating accounts with read-only access rights for non-OGCIO users) had not been taken into account when designing the user profiles of OGCIO's ERKS. In Audit's view, the design of user profiles of OGCIO's ERKS does not meet audit requirements regarding obtaining reliable audit evidence efficiently through the system (para. 3.38(a));
- (b) ***Users with low usage.*** Low usage of some users was generally observed in all four B/Ds. For example, as of January 2020, 306 (30%) of 1,025 ERKS users in OGCIO were found not using ERKS for over one year (para. 3.38(b));
- (c) ***No guidelines on time limit for capturing records into ERKS.*** All four B/Ds did not specify in their departmental guidelines the time limit to capture a record into ERKS. Audit analysis of the filing dates of e-mails in ERKS revealed that some e-mails were only captured into ERKS over three months after the sent/received date. For example, in 2019, 7,747 (22%) of 35,567 e-mail records in OGCIO and 3,792 (17%) of 22,700 e-mail records in CCIB of CEDB were captured over three months after the sent/received date (para. 3.38(c)); and
- (d) ***Need to consider migration to central ERKS in due course.*** In the service-wide implementation, to achieve economies of scale on software licences, and implementation and support costs, a single ERKS software solution will be adopted to develop the central ERKS for deployment. The

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annual recurrent cost for each ERKS user is estimated to be about \$1,500. In contrast, the annual operating expenditure per ERKS user for the pilot projects in 2018-19 ranged from \$1,667 to \$35,714. B/Ds under the ERKS pilot programme should keep in view the merits of migrating to the central ERKS when their ERKSs are due for replacement in future (para. 3.45).

Archiving of electronic records

12. According to GRS, long-term preservation of electronic records is necessary to ensure that electronic records are authentic, complete, accessible, identifiable, understandable and usable for as long as they are required to serve legal, regulatory, business and archival requirements. To achieve that, it is necessary to formulate government-wide policy and strategies for preserving electronic records over time (para. 4.3). Audit found the following areas for improvement:

- (a) ***Slow progress in conducting comprehensive study.*** In January 2013, GRS and OGCI0 completed a preliminary study to, among others, define the scope of a comprehensive study on long-term preservation of electronic records. According to the original plan submitted to the EIM Steering Group in 2011, the comprehensive study was scheduled for completion in December 2014. However, as of October 2019, the revised target completion date was May 2021, representing a delay of about 6 years. Given that 11 B/Ds have implemented ERKS since 2010, the need for transfer of electronic records with archival value from B/Ds to GRS for permanent retention will arise in the near future. There is a need to step up efforts to avoid further delay (paras. 4.4 and 4.5);
- (b) ***Need to ascertain progress made by B/Ds in improving preservation of electronic records.*** In 2012, GRS and OGCI0 jointly conducted a survey (covering 74 B/Ds and offices) to gauge the need for preservation of electronic records in B/Ds and assess the effectiveness of current preservation measures adopted by B/Ds. The survey found that: (i) only 27 (36%) B/Ds and offices had conducted file format migration for their electronic records in the past seven years; and (ii) of 49 B/Ds and offices that had managed and/or stored electronic records in offline storage media, only 15 (31%) of them had conducted media renewal and/or media migration. While GRS promulgated a guideline in July 2013 setting out good practices and measures to preserve electronic records for reference by B/Ds, it did not regularly ascertain the progress made by B/Ds in improving

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their measures and practices in preserving electronic records (paras. 4.13 to 4.15); and

- (c) ***Need to formulate long-term strategy for web archiving and promulgate relevant guidelines.*** All B/Ds have set up their own websites for dissemination of information. Senior government officials and B/Ds are also using social media to disseminate information and interact with members of the public. However, Audit noted that there was a lack of guidelines on management and archiving of records in government websites or social media platforms. Audit research has revealed that: (i) web archiving initiatives have been implemented in some overseas jurisdictions for quite some time (e.g. the United Kingdom in 2003 and Singapore in 2006); and (ii) the related archived government websites and/or social media accounts are usually accessible by the public through dedicated websites. Up to February 2020, the Government had yet to formulate a long-term strategy for web archiving and did not have a centralised web archive of all government websites and/or official social media accounts, similar to the ones in overseas jurisdictions (paras. 4.16 to 4.19).

Audit recommendations

13. **Audit recommendations are made in the respective sections of this Audit Report. Only the key ones are highlighted in this Executive Summary. Audit has *recommended* that the Government Chief Information Officer, the Director of Administration and the Commissioner for Efficiency should:**

- (a) **take further actions to follow up with B/Ds on outstanding ERKS implementation plans (para. 2.11(a));**
- (b) **review B/Ds' ERKS implementation plans to ensure that the workload over the period from mid-2021 to end-2025 is evenly spread out as far as practicable, and liaise with and provide necessary support to those which have indicated difficulties in meeting the target of service-wide implementation of ERKS by end-2025 (para. 2.11(b));**
- (c) **remind B/Ds to provide stronger management oversight on the service-wide implementation of ERKS (para. 2.11(c));**

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- (d) consider the way forward for the electronic management of personnel records by B/Ds (para. 2.23(a));
 - (e) in consultation with the Security Bureau, critically evaluate the feasibility of providing remote access to confidential records in ERKS (para. 2.23(b));
 - (f) in implementing ERKS in the remaining B/Ds in future, take into account the implementation plan of the new e-mail system as far as practicable (para. 2.23(c));
 - (g) take measures to reduce the extent of manual data input efforts required to capture records into ERKS (para. 2.23(d));
 - (h) set up a mechanism to measure B/Ds' savings in paper/printing costs upon the cessation of the print-and-file practice (para. 3.28(a)); and
 - (i) remind the 11 B/Ds under the ERKS pilot programme to keep in view the merits of migrating to the central ERKS when their ERKSs are due for replacement in future (para. 3.46).
14. Regarding the system development of ERKS, Audit has *recommended* that the Government Chief Information Officer should:
- (a) draw lessons from the implementation of common base system to improve the monitoring of contractors in the service-wide implementation of ERKS, including:
 - (i) holding regular PSC meetings to provide strategic direction on project implementation (para. 3.26(a)(i)); and
 - (ii) in granting extension of time of target completion dates in ERKS projects for the remaining B/Ds in future, seeking the Department of Justice's advice on whether liquidated damages should be imposed, having regard to the contractor's performance and the loss to the Government arising from the project delay (para. 3.26(a)(ii));

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- (b) closely monitor the Contractor's progress to ensure that ERKS for MD can be completed by the revised completion date of June 2021 and the errors identified are rectified as soon as possible (para. 3.26(b));
 - (c) take effective measures to ensure PIDRs of ERKS projects are submitted in a timely manner (para. 3.26(c)); and
 - (d) remind B/Ds to fully take into account audit requirements in designing their ERKSs in the service-wide implementation of ERKS (para. 3.39(a)).
15. Regarding the system operation of ERKS and archiving of electronic records, Audit has *recommended* that the Director of Administration should:
- (a) remind B/Ds with ERKS to identify users with low usage and investigate the reasons for taking appropriate action, and formulate guidelines on the time limit for filing records into ERKS (para. 3.40);
 - (b) step up efforts to complete the comprehensive study on long-term preservation of electronic records (para. 4.20(a));
 - (c) consider setting up a mechanism to regularly monitor B/Ds' practices in preserving electronic records (para. 4.20(b)); and
 - (d) formulate a long-term strategy for web archiving in the Government and promulgate guidelines on management of electronic records in web environment (para. 4.20(c)).
16. Audit has also *recommended* that:
- (a) the Director of Marine should strengthen the monitoring of ERKS project progress and hold regular PSC and PAT meetings to oversee the Contractor's performance (para. 3.27(a)); and

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- (b) **the Secretary for Commerce and Economic Development and the Commissioner of Rating and Valuation should work closely with GRS to dispense with the print-and-file practice (paras. 3.29 and 3.30).**

Response from the Government

- 17. The Government generally agrees with the audit recommendations.

CHAPTER 5

Commerce and Economic Development Bureau Intellectual Property Department

Intellectual Property Department: Registration and protection of intellectual property

**Audit Commission
Hong Kong
2 April 2020**

This audit review was carried out under a set of guidelines tabled in the Provisional Legislative Council by the Chairman of the Public Accounts Committee on 11 February 1998. The guidelines were agreed between the Public Accounts Committee and the Director of Audit and accepted by the Government of the Hong Kong Special Administrative Region.

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INTELLECTUAL PROPERTY DEPARTMENT: REGISTRATION AND PROTECTION OF INTELLECTUAL PROPERTY

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INTELLECTUAL PROPERTY DEPARTMENT: REGISTRATION AND PROTECTION OF INTELLECTUAL PROPERTY

Executive Summary

1. Intellectual property (IP) is the name commonly given to a group of separate intangible property rights. The most common types of IP include trade mark, patent, design and copyright. In Hong Kong, trade marks, patents, designs and copyrights are generally protected under the Trade Marks Ordinance (Cap. 559), the Trade Descriptions Ordinance (Cap. 362), the Patents Ordinance (Cap. 514), the Registered Designs Ordinance (Cap. 522) and the Copyright Ordinance (Cap. 528). In addition, under various international conventions, Hong Kong is required to recognise rights of persons from all member countries. Copyright is an automatic right and is not necessary to be registered. Unlike copyrights, the IP rights of trade marks, patents and designs are not automatic rights. As at 31 December 2019, the number of trade marks, patents and designs registered in Hong Kong totalled 536,592. The Commerce and Economic Development Bureau assumes policy responsibility for IP rights within Hong Kong. The Intellectual Property Department (IPD) is responsible for the registration and protection of IP. In 2018-19, IPD's income was \$220.7 million and its total expenditure was \$177.5 million. The Audit Commission (Audit) has recently conducted a review of IPD's work on the registration and protection of IP.

Registration of trade marks, patents and designs

2. *Backlog in processing trade mark applications.* Audit analysed the backlog in trade mark applications and noted that: (a) the number of outstanding applications increased by 29% from 5,270 in January 2018 to 6,775 in December 2019; (b) there was a significant increase of 67% in the number of outstanding applications from 6,494 in January 2019 to a peak of 10,860 in May 2019; and (c) the percentage of trade marks that were registered within six months from the date of receipt of application decreased from 73% in April 2018 to 7% in June 2019 and then picked up to 45% in December 2019 (paras. 2.4 and 2.5).

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3. ***Need to shorten the time taken to issue first letters to trade mark applicants.*** Audit analysed the progress of processing outstanding trade mark applications and noted that as at 31 December 2019, of the 6,775 applications: (a) 4,907 (72%) had not yet completed the deficiencies checking stage, including 765 (16% of 4,907) which had been received for over 90 days. The earliest application was received 1,156 days ago; and (b) 1,868 (28%) were undergoing the search and examination stage. Audit also noted that in the period from January 2018 to October 2019, IPD issued 67,049 first letters to trade mark applicants during the deficiencies checking stage requesting them to provide information to remedy the deficiencies or notifying them that their applications would proceed to the search and examination stage. For 17,177 (26%) of the 67,049 first letters, IPD took more than 60 days after receipt of the applications to issue the first letters, and the longest time taken was 433 days (paras. 2.8, 2.10 and 2.11).

4. ***Increasing number of outstanding applications for patent registration.*** Audit analysed the number of outstanding applications for standard patents and short-term patents for the period from January 2018 to December 2019 and noted that: (a) the number of outstanding standard patent applications increased by 70% from 6,367 to 10,798; (b) the number of outstanding short-term patent applications increased by 56% from 260 to 406; and (c) there was an increasing trend in the number of outstanding applications for standard patents since late 2018 and for short-term patents since early 2019 (paras. 2.15 and 2.16).

5. ***Long waiting time for hearings on trade mark registration matters.*** For inter partes substantive hearings on trade mark registration heard in December 2019, the average waiting time for hearings was 11 months. IPD considered that the average waiting time was quite long as compared to the performance of overseas IP agencies and the Judiciary of Hong Kong. Proceedings concerning trade marks should be determined expeditiously as any uncertainty concerning the use or protection of trade marks would have a material impact on the trade mark owners' business plans and strategies (paras. 2.22, 2.23 and 2.25).

6. ***Room for improving the proportion of electronic filing for trade mark registration.*** Audit examined the statistics of electronic filing for trade mark, patent and design applications in the period from 2015 to 2019 and noted that: (a) the percentage of electronic filing for trade mark applications was the lowest among the three types of applications persistently; (b) the percentage of electronic filing for trade mark applications received by IPD was lower than those of other major IP offices

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outside Hong Kong; and (c) IPD had introduced preferential fee reduction for electronic filing of patent applications but not for that of trade mark or design applications (paras. 2.27 and 2.31).

7. *Need to consider setting performance targets on some key steps in the application processes.* IPD has included in its Controlling Officer's Report 20 key performance measures in respect of its statutory functions, comprising 6 targets and 14 indicators. Audit noted that no targets or indicators were set in relation to: (a) the timeliness of issuing the first letters to applicants during the deficiencies checking stage for trade mark registration; and (b) the timeliness of processing applications during the examination on formal requirements stage for patent registration and design registration. These steps constituted a considerable proportion of the average processing time of the respective types of applications (paras. 2.34 to 2.36).

8. *Some costing statements not submitted to the Financial Services and the Treasury Bureau (FSTB) to support costing reviews.* It is stipulated in the Financial Circular No. 6/2016 entitled "Fees and Charges" that Controlling Officers should conduct costing reviews for fees once a year. For the annual costing reviews for 2015-16 to 2019-20 price levels, in some cases, IPD had not submitted costing statements to the Treasury for vetting and/or to FSTB, contrary to the Financial Circular requirements (paras. 2.39 and 2.40).

Promotion of intellectual property protection

9. *Need to step up efforts in promoting public awareness of IP protection.* In order to evaluate the change in awareness level on IP among the public, IPD has periodically conducted the Survey on Public Awareness of Intellectual Property Right Protection (PAIP survey) since 1999. Audit noted that for the PAIP survey completed in 2018, of the 1,003 respondents interviewed: (a) 74% were not aware that IPD was the Government department responsible for promoting the protection of IP rights in Hong Kong; (b) 49% were not aware of the promotional activities of IPD; and (c) 36% considered that the promotional activities of IPD were quite/very ineffective (paras. 3.3 and 3.5).

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10. ***Need to review the promotional expenditure spent on different channels.*** Audit analysed the expenditure incurred by IPD in 2018-19 on placing advertisements through different channels to promote IP protection and noted that: (a) while 19% of the expenditure was spent on advertisements at the airport and immigration control points, its effectiveness was not evaluated in the PAIP survey; and (b) while only a small percentage of the respondents perceived that advertisements on bus was the most effective advertising channel, 11% of the expenditure was spent on bus advertisements, higher than those spent on other channels which were perceived to be more effective according to the PAIP survey (para. 3.8).

11. ***Room for improvement for the No Fakes Pledge (NFP) Scheme.*** IPD launched the NFP Scheme in 1998. Participating merchants in the Scheme must volunteer to make a pledge not to sell fakes, and may post the No Fakes (NF) stickers and place tent cards in their shops. IPD is the coordinator of the Scheme, and there are four supporting organisations for the Scheme including the Customs and Excise Department (C&ED). Audit noted that: (a) the number of physical shops covered under the Scheme decreased by 274 (4%), from 6,785 in 2015 to 6,511 in 2019 and up to 31 December 2019, only 166 online shops were covered; (b) as at 11 February 2020, of the 1,225 retail merchants who were members in 2019, 318 (26%) had not renewed their membership; (c) of the 9 retail shops visited by Audit in January 2020 whose NFP Scheme membership had already been suspended or terminated, 2 (22%) were still displaying the NF logo on promotional materials in their shops; and (d) IPD had not taken prompt follow-up actions after raid operations were taken against three member shops by C&ED (paras. 3.13 to 3.16, 3.21, 3.26 and 3.28).

12. ***Room for improvement for the IP Manager Scheme.*** The IP Manager Scheme was launched in 2015 with an aim of assisting Hong Kong enterprises to build up their IP manpower capacity and to increase competitiveness so as to grasp the opportunities brought by IP trading. Audit noted that: (a) the number of new participating enterprises decreased by 38% from 242 in 2017-18 to 151 in 2018-19; and (b) in the period from 2015-16 to 2018-19, the attendance rate of training programmes under the Scheme had decreased from 97.7% to 86.3% (paras. 3.36, 3.37 and 3.40).

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Administrative issues

13. *Need to enhance competition in procurement of outsourced services.* In the period from 2001 to 2019, IPD awarded six outsourcing contracts through open tenders for some of its non-core services, with a total contract value amounting to \$335.4 million. Audit reviewed the tender exercises conducted by IPD in the period from 2001 to 2019 and noted that 9 bids were received for one contract for the tender exercise in 2001 while only 1 to 4 bids were received for the other five contracts for the tender exercises in 2006 to 2019. Audit noted that: (a) since 2014, the tenderer's experience had been the sole criteria for IPD's tender evaluation other than the tender price. In October 2018, it was announced in the 2018 Policy Address that the Government would introduce a pro-innovation government procurement policy in April 2019, raising the technical weighting in tender assessment with a view to promoting innovation. However, for the tender exercise conducted in March 2019, IPD used the evaluation approach adopted for the previous contract and included tenderer's experience as the only essential requirement; and (b) according to the Stores and Procurement Regulations, departments are encouraged to conduct a market research or non-binding expression of interest (EOI) exercise to better understand the goods or services likely to be available in the market. Although IPD received only two tender proposals in the 2006 tender exercise, it did not conduct any market research or EOI exercise for the subsequent tender exercises (paras. 4.2, 4.3, 4.5 to 4.7 and 4.10).

14. *Need to strengthen the monitoring of contractor's performance.* Audit noted that: (a) according to the contract for IPD's office operation service (with contract period from December 2014 to November 2019), Management Committee and business review meetings should be held at least once every three months. However, 11 (55%) of the 20 Management Committee meetings and 11 (65%) of the 17 business review meetings during the contract period were held longer than three months after the previous meeting; and (b) the guidelines on checking of contractor's performance report only showed how the deduction of monthly charges was computed, but detailed procedures on other checks were not included (para. 4.13).

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Audit recommendations

15. Audit recommendations are made in the respective sections of this Audit Report. Only the key ones are highlighted in this Executive Summary. Audit has *recommended* that the Director of Intellectual Property should:

Registration of trade marks, patents and designs

- (a) take measures to expedite the processing of trade mark applications (para. 2.32(b) and (c));
- (b) closely monitor and take measures to reduce the backlog of outstanding patent applications (para. 2.32(d));
- (c) closely monitor the waiting time for hearings and take measures to shorten the time when the situation warrants (para. 2.32(f));
- (d) explore measures to further increase the rate of electronic filing for trade mark applications (para. 2.32(g));
- (e) review the coverage of IPD's existing targets on the timeliness of processing trade mark, patent and design applications and consider setting a target on the time taken to issue the first report during examination on formal requirements for patent and design applications (para. 2.37);
- (f) ensure that the prevailing government guidelines on fees and charges are complied with (para. 2.44(a));

Promotion of IP protection

- (g) step up efforts on promotion of public awareness of IP protection (para. 3.11(a) and (b));
- (h) boost the membership of the NFP Scheme (para. 3.33(a) to (c));

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- (i) **take measures to prevent misuse of the NF logo on promotional materials by shops which are not members of the NFP Scheme (para. 3.33(e));**
- (j) **take measures to ensure that prompt follow-up actions are taken against participating merchants of the NFP Scheme upon raid operations for IP rights infringement (para. 3.33(f));**
- (k) **step up efforts to boost the attractiveness of the IP Manager Scheme and the attendance rate of the training programme under the IP Manager Scheme (para. 3.43(a) and (b));**

Administrative issues

- (l) **in conducting tender exercises for the procurement of outsourced services, set evaluation criteria that dovetail with the new pro-innovation government procurement policy (para. 4.16(a));**
- (m) **conduct market research or non-binding EOI exercises for tender exercises with a view to ascertaining the market supply of the services required (para. 4.16(b)); and**
- (n) **take measures to strengthen the monitoring of the contractor's performance (para. 4.16(c)).**

Response from the Government

16. The Director of Intellectual Property generally agrees with the audit recommendations.

PART 1: INTRODUCTION

1.1 This PART describes the background to the audit and outlines the audit objectives and scope.

Background

1.2 Intellectual property (IP) is the name commonly given to a group of separate intangible property rights. The most common types of IP include:

- (a) **Trade mark.** A trade mark is a sign which is capable of distinguishing the goods or services of one undertaking from those of other undertakings and which is capable of being represented graphically;
- (b) **Patent.** A patent for an invention (Note 1) is the legal right granted to the patent owner to exclude others from using (e.g. manufacturing, using, selling or importing) the patented invention for a limited period;
- (c) **Design.** A design is the features of shape, configuration, pattern or ornament applied to an article by any industrial process, being features which in the finished article appeal to and are judged by the eye; and
- (d) **Copyright.** A copyright is the property right which subsists in the following work:
 - (i) original literary, dramatic, musical or artistic works;
 - (ii) sound recordings, films, broadcasts or cable programmes; and
 - (iii) the typographical arrangement of published editions.

Note 1: *An invention is a product or a process that provides, in general, a new way of doing something, or offers a new technical solution to a problem.*

Legal framework of IP protection

1.3 In Hong Kong, trade marks, patents, designs and copyrights are generally protected under the following laws which provide domestic protection (i.e. a right given under Hong Kong laws only applies in Hong Kong):

- (a) ***Trade Marks Ordinance (Cap. 559).*** The Trade Marks Ordinance provides the framework for Hong Kong's systems of registration of trade marks and sets out the basis and criteria for registration, as well as the rights attached to a registered trade mark. Trade marks are registered for a period of ten years and may be renewed indefinitely for further periods of ten years;
- (b) ***Trade Descriptions Ordinance (Cap. 362).*** The Trade Descriptions Ordinance stipulates that it is a criminal offence to use a trade mark fraudulently, including selling and importing goods bearing a forged trade mark, or possessing or using equipment for that purpose;
- (c) ***Patents Ordinance (Cap. 514).*** The Patents Ordinance stipulates that an invention which is new, involves an inventive step and is susceptible of industrial application is patentable in Hong Kong provided that it does not belong to the excluded classes (Note 2). There are two types of patents granted in Hong Kong, namely standard patents and short-term patents, which have a maximum term of protection of 20 years and 8 years respectively;
- (d) ***Registered Designs Ordinance (Cap. 522).*** The Registered Designs Ordinance protects the appearance of products (e.g. the look of a computer monitor) upon registration, but does not protect the way in which the product relating to the design works. The maximum term of protection of a registered design is 25 years; and

Note 2: *According to the Patents Ordinance, the following are not regarded as an invention, namely: (a) a discovery, scientific theory or mathematical method; (b) an aesthetic creation; (c) a scheme, rule or method for performing a mental act, playing a game or doing business, or a program for a computer; and (d) a presentation of information. Other excluded classes cover surgical or therapeutic methods for treatment of the human or animal body and inventions the publication or working of which is contrary to public order or morality, etc.*

- (e) ***Copyright Ordinance (Cap. 528).*** The Copyright Ordinance provides comprehensive protection for recognised categories of work (see para. 1.2(d)). Copyright is an automatic right which arises when a work is created and it is not necessary to register a copyright in Hong Kong in order to get protection under the Ordinance. As a general rule, a copyright lasts until 50 years after the creator of the work dies.

1.4 Unlike copyrights, the IP rights of trade marks, patents and designs are not automatic rights. They must be registered in accordance with the related provisions of the relevant ordinance in order to obtain the IP right protection (Note 3). As at 31 December 2019, the number of trade marks, patents and designs registered in Hong Kong totalled 536,592 (see Table 1).

Table 1

**Number of registered trade marks, patents and designs
(31 December 2019)**

Type of IP	No.
Trade mark	442,263 (82.4%)
Standard patent	51,949 (9.7%)
Short-term patent	3,271 (0.6%)
Design	39,109 (7.3%)
Total	536,592 (100.0%)

Source: IPD records

Note 3: *Since all trade marks (both registered and unregistered) are protected under the common law of passing-off, registration is not a must for protection. However, only trade marks registered under the Trade Marks Ordinance can enjoy the statutory protection under the Ordinance.*

Introduction

1.5 The international conventions listed in Appendix A apply to Hong Kong, China. Under these conventions, Hong Kong is required to recognise rights of persons from all member countries.

Intellectual Property Department

Programme areas

1.6 The Commerce and Economic Development Bureau (CEDB) assumes policy responsibility for IP rights within Hong Kong. The Intellectual Property Department (IPD) is responsible for the registration and protection of IP (Note 4). The work of IPD is carried out under two programme areas:

- (a) ***Programme (1): Statutory functions.*** IPD examines trade mark, patent, design and registration of copyright licensing bodies (Note 5) applications, maintains relevant registers and makes them available for public search. In 2019, the number of trade mark, patent and design applications received by IPD totalled 56,868 (see Table 2); and

Note 4: *The Customs and Excise Department is responsible for enforcing the criminal aspects of IP rights infringement. In October 2012, the Audit Commission completed a review of the Customs and Excise Department's management of IP rights enforcement work. The scope of this review does not cover the work of the Customs and Excise Department.*

Note 5: *Copyright licensing bodies are authorised by copyright owners to grant, on their behalf, licences to users of copyright works. The Copyright Ordinance provides for a voluntary registration scheme for copyright licensing bodies and the Director of Intellectual Property is the Registrar of Copyright Licensing Bodies.*

Table 2

**Number of trade mark, patent and design applications received
(2015 to 2019)**

Type of IP	No. of applications					Change from 2015 to 2019
	2015	2016	2017	2018	2019	
Trade mark	39,179	36,181	37,630	40,331	36,980	-2,199 (-6 %)
Standard patent	12,212	14,092	13,299	15,986	16,521	+4,309 (+35 %)
Short-term patent	702	762	693	791	791	+89 (+13 %)
Design	2,769	2,515	2,609	2,583	2,576	-193 (-7 %)
Overall	54,862	53,550	54,231	59,691	56,868	+2,006 (+4 %)

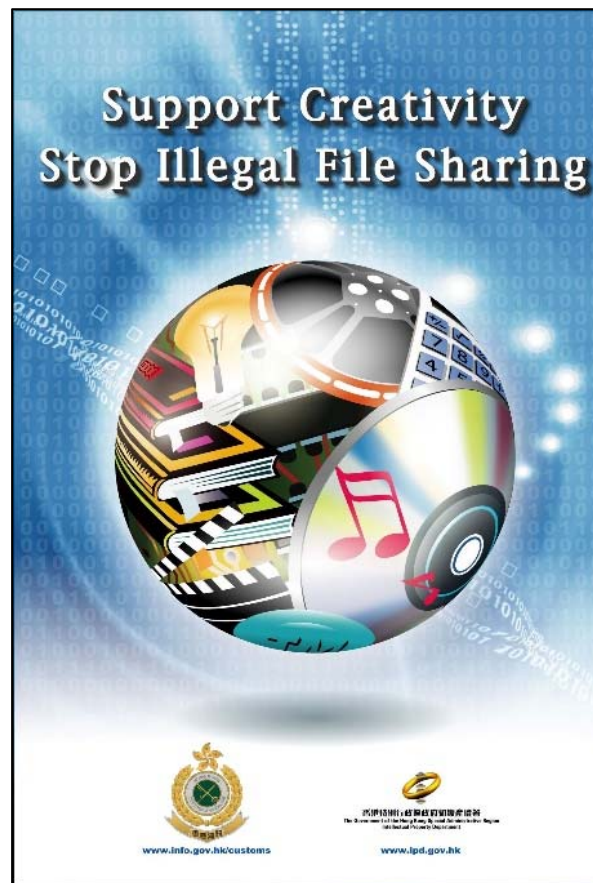
Source: Audit analysis of IPD records

Introduction

- (b) **Programme (2): Protection of IP.** The work of IPD under this programme area includes promoting awareness of IP rights, advising the Secretary for Commerce and Economic Development on policies and legislation to strengthen protection of IP rights, and providing civil legal advice on IP matters to government bureaux and departments. IPD promotes IP protection through different channels. The most common channels include Internet (e.g. websites and social media), media announcements and posters (see Figure 1).

Figure 1

A poster to promote IP protection



Source: IPD records

Remarks: This poster was jointly produced by IPD and the Customs and Excise Department.

Organisation structure

1.7 The Director of Intellectual Property is the Controlling Officer of IPD. As at 31 December 2019, IPD had 171 civil service staff and 14 full-time non-civil service contract (NCSC) staff. The work of IPD is carried out by:

- (a) ***Copyright Team.*** The Copyright Team is responsible for providing legal advice and policy support to CEDB in matters concerning copyright and related rights. It monitors and advises the Government on the development of international copyright treaties and related standards. It regularly reviews the copyright regime and formulates legislative proposals for updating the copyright law;
- (b) ***Advisory Team.*** The Advisory Team is responsible for providing civil legal advice on IP matters to government bureaux and departments, overseeing the development of the collaborative relations and efforts with other IP authorities and international bodies, and formulating and implementing strategies and support measures for developing Hong Kong as an IP trading hub (Note 6) in the region;
- (c) ***Hearings Team.*** The Hearings Team is responsible for undertaking trade mark registrability, opposition, revocation and invalidation hearings, determining all related interlocutory matters, and handing down reasoned decisions;
- (d) ***Trade Marks Team.*** The Trade Marks Team is responsible for overseeing the practice and procedures in respect of applications for registration of trade marks, and their post-registration matters, provision of policy and legal advice to CEDB on issues relating to trade marks and the development of laws, procedures and policies relating to trade mark registrations;
- (e) ***Patents & Designs Team.*** The Patents & Designs Team is responsible for overseeing the practice and procedures in respect of applications for grant of patents and registered designs, and their post-grant matters, and providing legal and policy advice to CEDB on legislative proposals and other issues relating to patents and registered designs;

Note 6: *IP trading refers broadly to any means by which IP rights are commercially dealt with, including selling, buying, licensing out and licensing in.*

Introduction

- (f) **Marketing Division.** The Marketing Division is responsible for formulating and implementing publicity programmes on IP promotion and protection in Hong Kong and cooperation programmes with the Mainland, regional and international authorities, as well as carrying out work in relation to the promotion of IP trading; and
- (g) **Administration Unit.** The Administration Unit is responsible for the finance, human resources and administrative matters of IPD.

An extract of the organisation chart of IPD as at 31 December 2019 is at Appendix B.

Income and expenditure

1.8 In 2018-19, IPD's income was \$220.7 million (see Table 3) and total expenditure was \$177.5 million (see Tables 4 and 5).

Table 3

**Income analysed by fee type
(2018-19)**

Fee type	Income (\$ million)
Trade mark fees	186.5 (84 %)
Patent fees	26.3 (12 %)
Registered design fees	7.9 (4 %)
Total	220.7 (100 %)

Source: Audit analysis of IPD records

Table 4
Expenditure analysed by programme area
(2018-19)

Programme area	Expenditure (\$ million)
Statutory functions	124.3 (70%)
Protection of IP	53.2 (30%)
Total	177.5 (100%)

Source: Audit analysis of IPD records

Table 5
Expenditure analysed by nature
(2018-19)

Nature	Expenditure (\$ million)
Personal emoluments	120.7 (68%)
Personnel related expenses	7.6 (4%)
General departmental expenses	34.9 (20%)
Publicity and educational programmes	14.3 (8%)
Total	177.5 (100%)

Source: Audit analysis of IPD records

Audit review

1.9 In 2006, the Audit Commission (Audit) completed a review of the services provided by IPD and the results were reported in Chapter 11 of the Director of Audit's Report No. 47 of October 2006.

Introduction

1.10 In October 2019, Audit commenced a review of IPD's work on the registration and protection of IP. The audit has focused on the following areas:

- (a) registration of trade marks, patents and designs (PART 2);
- (b) promotion of IP protection (PART 3); and
- (c) administrative issues (PART 4).

Audit has found room for improvement in the above areas and has made a number of recommendations to address the issues.

General response from the Government

1.11 The Director of Intellectual Property generally agrees with the audit recommendations. He thanks Audit for the professionalism exuded throughout the audit review, which has helped the department to review and enhance its operations on various fronts.

1.12 The Secretary for Commerce and Economic Development generally agrees with the audit recommendations and the response from the Director of Intellectual Property. He has said that CEDB will oversee IPD's efforts in following up with the recommendations.

Acknowledgement

1.13 Audit would like to acknowledge with gratitude the full cooperation of the staff of IPD during the course of the audit review.

PART 2: REGISTRATION OF TRADE MARKS, PATENTS AND DESIGNS

2.1 This PART examines the registration of trade marks, patents and designs, focusing on the following areas:

- (a) processing of applications for registration (paras. 2.3 to 2.33);
- (b) performance measurement and reporting (paras. 2.34 to 2.38); and
- (c) costing of fees and charges (paras. 2.39 to 2.45).

Background

2.2 IPD is responsible for operating the following Registries:

- (a) ***Trade Marks Registry.*** The Trade Marks Registry is responsible for examining trade mark applications, maintaining the register of trade marks and making it available for public search. Moreover, registrability and opposition hearings on trade mark applications are primarily within the purview of the Hearings Team (see para. 2.21);
- (b) ***Patents Registry.*** The Patents Registry is responsible for examining patent applications, maintaining the register of patents and making it available for public search. Before the launch of the Original Grant Patent (OGP) system on 19 December 2019 (Note 7), standard patents were only granted on the basis of corresponding patents granted by one of the designated patent

Note 7: *The OGP system creates a direct route for seeking standard patent protection in Hong Kong with a maximum term of 20 years, as an alternative to the existing "re-registration" route. OGP applications are subject to substantive examination by IPD for determining the patentability of the underlying inventions. The "re-registration" route has been retained after the launch of the OGP. Unless otherwise stated, the analysis in this Audit Report in relation to the processing of standard patent applications only covered standard patent applications filed via the "re-registration" route.*

Registration of trade marks, patents and designs

offices (Note 8) under the “re-registration” route. Since 19 December 2019, standard patents can be granted either via the “re-registration” route or via the direct route under the OGP system. Short-term patents are granted based on formality examination as to whether the requisite information and documents (including a search report from an international searching authority or one of the designated patent offices) are fully furnished; and

- (c) ***Designs Registry.*** The Designs Registry is responsible for examining design applications, maintaining the register of designs and making it available for public search.

The procedures for registration of trade marks, patents and designs are set out at Appendices C to F.

Processing of applications for registration

Backlog in processing trade mark applications

2.3 Processing of a trade mark application mainly involves three stages (see Appendix C):

- (a) ***Deficiencies checking stage.*** Upon receipt of the application, IPD carries out checking to ensure that the application form has been properly filled in and all the required information is submitted;
- (b) ***Search and examination stage.*** At this stage, IPD conducts substantive examination to decide if the mark satisfies registration requirements laid down in the Trade Marks Ordinance and its subsidiary legislation. It also searches through the trade marks records to ascertain if the same or similar trade mark has already been registered or been applied for by another trader in respect of the same or similar class of goods and services. IPD will then issue a first response in writing which will either lay out the grounds for

Note 8: *The designated patent offices are the China National Intellectual Property Administration, the United Kingdom Patent Office and the European Patent Office, in respect of a European patent designating the United Kingdom.*

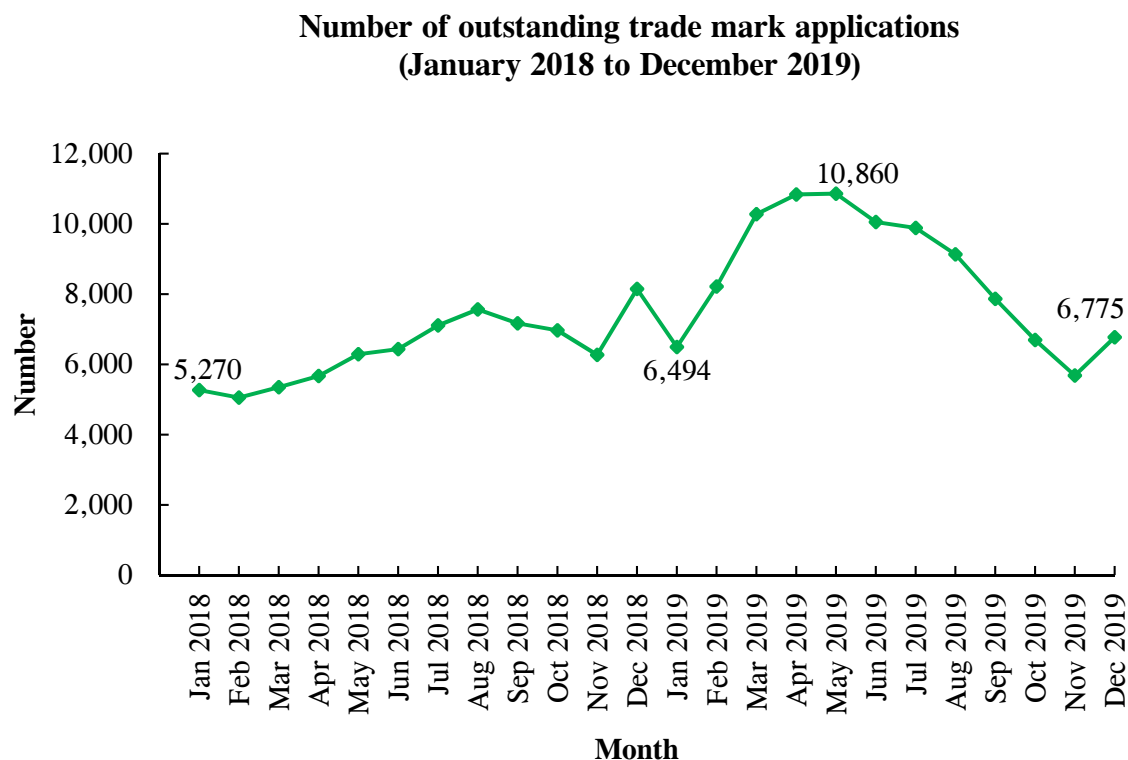
objection to the mark or confirm that the mark is acceptable for registration;
and

- (c) ***Publication stage.*** Once a trade mark application has been accepted for registration, it will be published in the Hong Kong Intellectual Property Journal. Members of the public can view the published trade mark and lodge an opposition within the 3-month period beginning on the publication date. The trade mark will be registered if no opposition is received or if opposition is decided in favour of the applicant.

2.4 ***Increasing number of outstanding applications.*** For monitoring the progress of examination of trade mark applications, IPD compiles monthly statistics on outstanding trade mark applications (i.e. applications that were received, undergoing the deficiencies checking stage, or undergoing the search and examination stage for which IPD had not yet issued the first response to the applicants), processing time for issuance of first responses and the number of applications registered. IPD reports the monthly statistics to CEDB. Audit analysed the number of outstanding trade mark applications for the period from January 2018 to December 2019 (see Figure 2). Audit noted that:

- (a) the number of outstanding applications increased by 29% from 5,270 in January 2018 to 6,775 in December 2019; and
- (b) there was a significant increase of 67% in the number of outstanding applications from 6,494 in January 2019 to a peak of 10,860 in May 2019.

Figure 2



Source: Audit analysis of IPD records

2.5 Decreasing percentage of trade marks registered within six months. IPD compiles monthly statistics on the percentage of trade marks that were registered within six months from the date of receipt of application. Audit analysed the percentage for trade marks successfully registered in the period from April 2018 (Note 9) to December 2019 and found that:

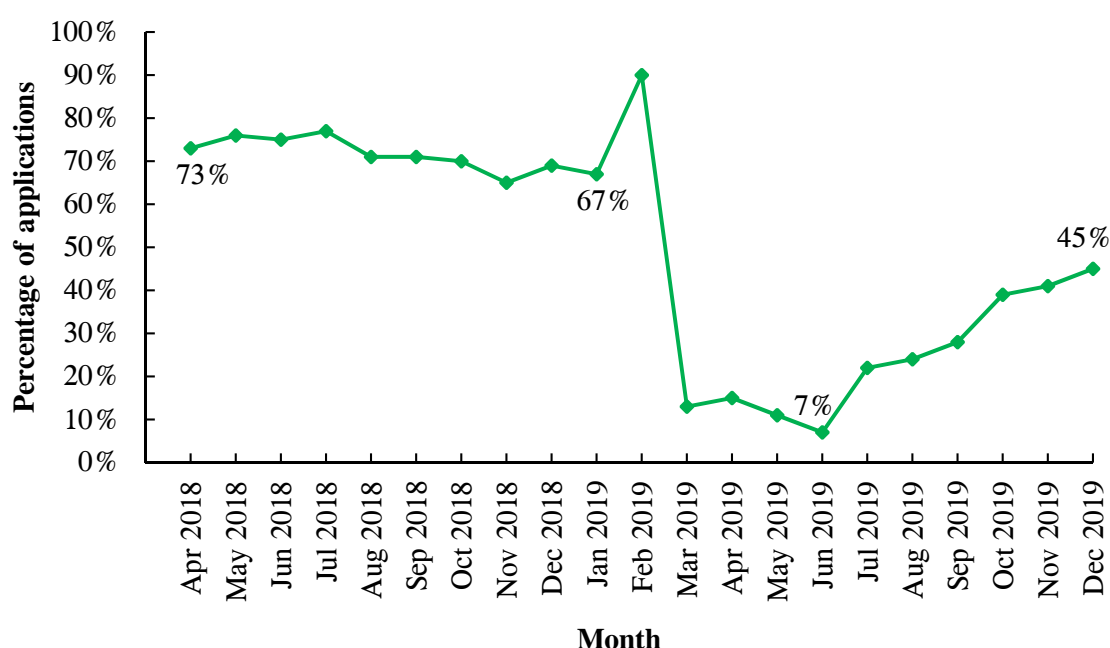
- (a) the percentage decreased from 73% in April 2018 to 45% in December 2019; and

Note 9: Before April 2018, statistics on the percentage of trade marks that were registered within twelve months, instead of six months from the date of receipt of application were compiled. Since April 2018, the period was shortened to six months to better reflect the performance of the Trade Marks Registry. Therefore, statistics on trade marks registered within six months were not available for trade marks registered before April 2018.

- (b) the percentages for the period from April 2018 to January 2019 were relatively stable and were about 70%. However, the percentage decreased significantly to 7% in June 2019 and had been picking up since then to 45% in December 2019 (see Figure 3).

Figure 3

**Percentage of trade marks registered within six months
from receipt of application
(April 2018 to December 2019)**



Source: Audit analysis of IPD records

2.6 In response to Audit's enquiry, IPD informed Audit in February 2020 that:

- (a) the increase in the number of outstanding trade mark applications in the period from January to May 2019 (see para. 2.4(b)) and the low percentage of trade marks registered within six months from the receipt of application for the period from March to June 2019 (see para. 2.5(b)) were mainly due to the need for adaptation to the new working environment for trade mark examination during the initial period after the launch of the New Integrated Information Technology System (NIS) in February 2019. To enable the launch, the operations of the Trade Marks Registry, the Patents Registry

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and the Designs Registry (Registries) were suspended for five working days; and

- (b) notwithstanding the teething issues and the need for familiarisation with NIS after its launch, the Trade Marks Registry managed to clear a substantial part of the outstanding applications. The number of outstanding trade mark applications was significantly reduced by 46% from the peak of 10,860 in May 2019 to 5,916 by the end of January 2020. The percentage of trade marks that were registered within six months from the receipt of application picked up from the trough of 7% in June 2019 to 51% by the end of January 2020.

2.7 Audit recognises the effort of IPD in improving the performance of the Trade Marks Registry. Notwithstanding this, Audit considers that IPD needs to closely monitor and continue to take measures to reduce the backlog of outstanding trade mark applications and expedite the processing of trade mark applications with a view to increasing the percentage of trade marks registered within six months from the receipt of their applications.

Need to shorten the time taken to issue first letters

2.8 Audit analysed the progress of processing of outstanding trade mark applications as at 31 December 2019 and noted that of the 6,775 applications (see para. 2.4(a)):

- (a) 4,907 (72%) had not yet completed the deficiencies checking stage; and
- (b) 1,868 (28%) were undergoing the search and examination stage. IPD had not yet issued the first response to the applicants (see para. 2.3(b)).

2.9 If an application failed to pass the deficiencies checking stage, IPD would issue a letter requesting the applicant to provide information to remedy the deficiencies within two months. According to IPD, it normally takes more than 90 days to complete the deficiencies checking stage since a two-month statutory period is allowed for these applicants to remedy deficiencies. For applications which successfully passed the checking, IPD would issue a letter notifying the applicants that their applications would proceed to the search and examination stage.

2.10 Audit conducted an ageing analysis of the applications which had not completed the deficiencies checking stage and noted that of the 4,907 outstanding applications, 765 (16%) had been received for over 90 days. The earliest application was received 1,156 days ago (see Table 6).

Table 6

**Ageing analysis of trade mark applications not having
completed the deficiencies checking stage
(31 December 2019)**

Time lapse since receipt (day)	No. of applications not having completed the deficiencies checking stage
0 to 30	2,555 (52 %)
> 30 to 60	1,135 (23 %)
> 60 to 90	452 (9 %)
> 90 to 180	525 (11 %)
> 180 to 365	204 (4 %)
> 365 (Note)	36 (1 %)
Total	4,907 (100 %)

Source: Audit analysis of IPD records

Note: The longest time lapse since receipt of the application was 1,156 days. According to IPD, this was a special case where the application had been treated as abandoned at one point as IPD received no response from the applicant to IPD's first letter after conducting deficiencies checking, and was subsequently reinstated over 18 months after receipt of the application.

Remarks 1: For applications with deficiencies, the time lapse included the two-month period allowed for applicants who failed the deficiencies checking to remedy the deficiencies.

Remarks 2: Information was not available on the number of applications for which the applicants had to remedy deficiencies found by IPD.

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2.11 Audit further analysed the timeliness of IPD in conducting the deficiencies checking and issuing first letters (the letters to the applicants to request them to provide information to remedy the deficiencies identified by IPD or notify them that their applications would proceed to the search and examination stage). In the period from January 2018 to October 2019, IPD issued 67,049 first letters to trade mark applicants during the deficiencies checking stage. Audit found that for 17,177 (26%) of the 67,049 first letters, IPD took more than 60 days after receipt of the applications to issue the first letters, and the longest time taken was 433 days (see Table 7).

Table 7

**Time taken to issue the first letters
during deficiencies checking stage for trade mark applications
(January 2018 to October 2019)**

Time taken (day)	Number of applications
0 to 30	29,186 (43 %)
> 30 to 60	20,686 (31 %)
> 60 to 90	9,762 (15 %)
> 90 to 180	6,827 (10 %)
> 180 to 365	584 (1 %)
> 365 (Note)	4 (0 %)
Total	67,049 (100 %)

Source: Audit analysis of IPD records

Note: The longest time taken was 433 days.

2.12 Audit considers that IPD needs to take measures to shorten the time taken to issue the first letters during the deficiencies checking stage for trade mark applications.

Increasing number of outstanding applications for patent registration

2.13 Processing of a standard patent application and a short-term patent application mainly involves three processing steps. For a standard patent application, the application process comprises two stages, namely request to record (after publication of the designated patent application in the designated patent office) and request for registration and grant (after the grant of the designated patent by the designated patent office), and the three processing steps are applicable to each of the two stages. The three processing steps include (see Appendix D):

- (a) ***Examination for according a date of filing.*** Upon receipt of a patent application, IPD will, for the purpose of according a date of filing to the application, check:
 - (i) ***Standard patent applications.*** To ensure that the application contains an indication that a request is made to record a designated patent application or for the registration of a designated patent and the grant of a standard patent, the name of the applicant and (for a request to record) a reference to the corresponding designated patent application or (for a request for registration and grant) the respective publication particulars of the corresponding designated patent and request to record; and
 - (ii) ***Short-term patent applications.*** To ensure that the application contains an indication that a short-term patent is sought, the name of the applicant and a description of the invention for which the application is made;
- (b) ***Examination on formal requirements.*** At this stage, IPD will examine whether the application fulfils the formal requirements, i.e. it contains the supporting information and documents as required by the legislation; and
- (c) ***Publication.*** Once a patent application has been accepted for record or grant, IPD will publish the application or grant and advertise the fact of the publication by notice in the Hong Kong Intellectual Property Journal.

2.14 Similar to trade mark applications, IPD prepares monthly statistics to monitor the number of outstanding patent applications:

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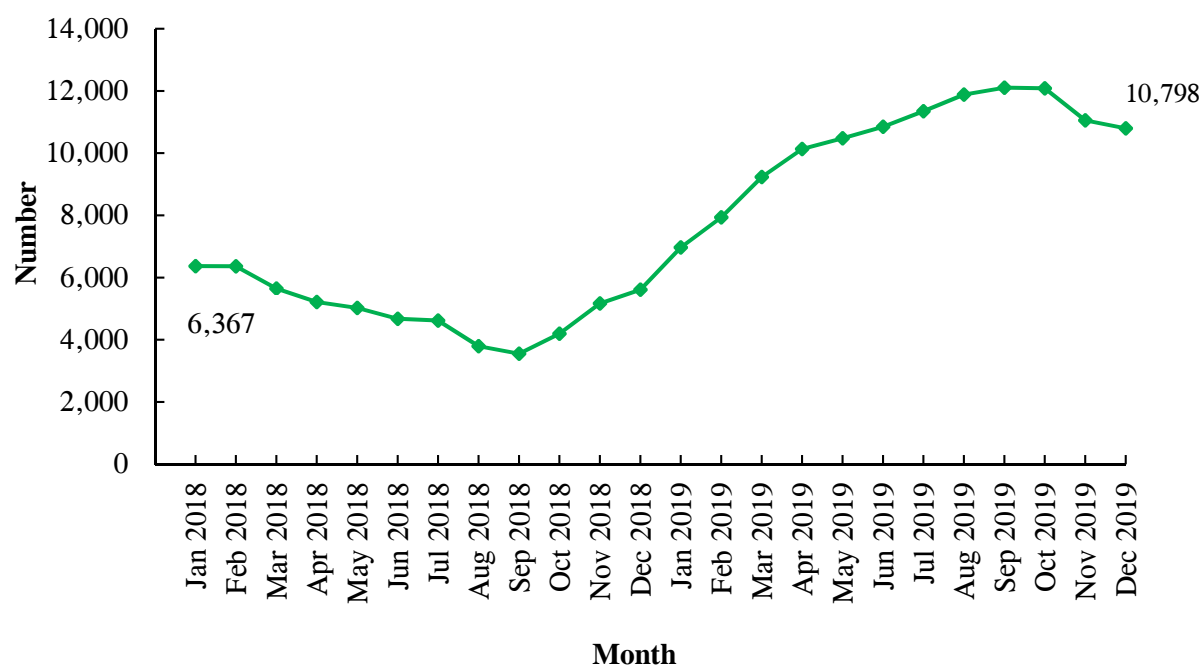
- (a) ***Standard patents.*** For standard patents, the outstanding cases refer to applications for which IPD has not yet issued the first examination report on the formal requirements of request to record, regardless of whether the first examination report on according the date of filing has been issued or not; and
- (b) ***Short-term patents.*** For short-term patents, the outstanding cases refer to applications for which IPD has not yet issued the first examination report on the formal requirements of application, regardless of whether the first examination report on according the date of filing has been issued or not.

2.15 Audit analysed the number of outstanding applications for standard patents and short-term patents for the period from January 2018 to December 2019. Audit noted that:

- (a) ***Outstanding standard patent applications.*** The number increased by 70% from 6,367 in January 2018 to 10,798 in December 2019 (see Figure 4); and
- (b) ***Outstanding short-term patent applications.*** The number increased by 56% from 260 in January 2018 to 406 in December 2019 (see Figure 5).

Figure 4

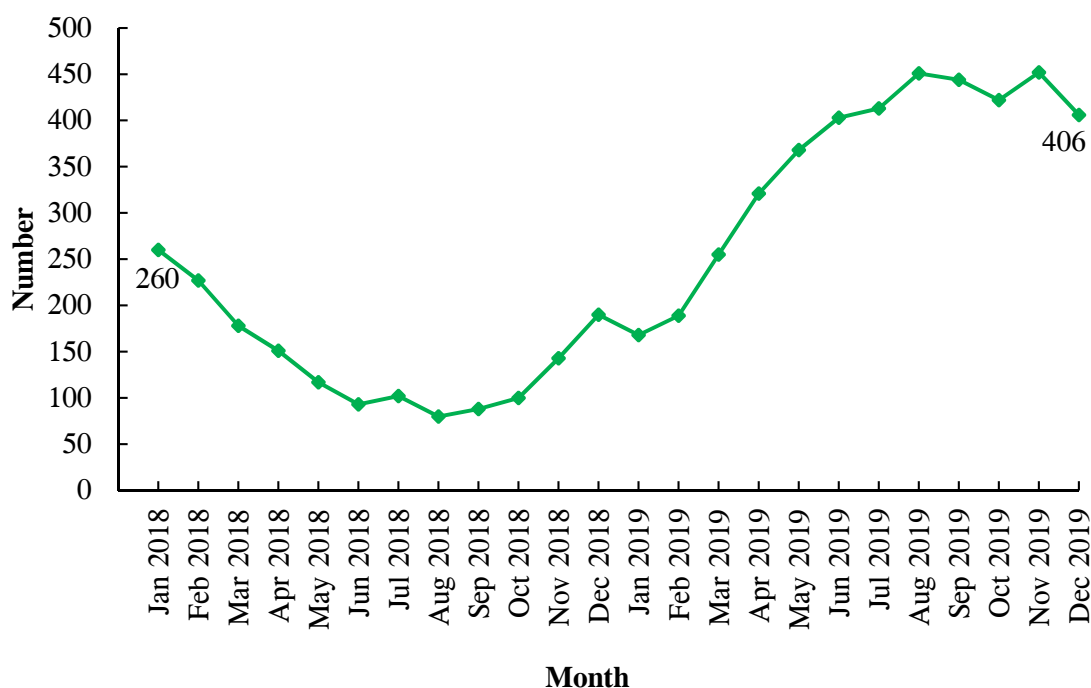
**Number of outstanding standard patent applications
(January 2018 to December 2019)**



Source: Audit analysis of IPD records

Figure 5

Number of outstanding short-term patent applications (January 2018 to December 2019)



Source: Audit analysis of IPD records

2.16 Audit noted an increasing trend in the number of outstanding applications for standard patents since late 2018 (see Figure 4) and for short-term patents since early 2019 (see Figure 5). Audit considers that IPD needs to closely monitor and take measures to reduce the backlog of outstanding patent applications.

Need to mitigate impact of other initiatives on processing of applications for registration

2.17 Audit identified room for improvement in IPD's processing of trade mark applications and patent applications in respect of:

- (a) the number of outstanding trade mark applications (see Figure 2 in para. 2.4);

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- (b) the percentage of trade mark registered within six months from the date of receipt of application (see Figure 3 in para. 2.5);
- (c) the time taken to issue the first letter during deficiencies checking stage for trade mark applications (see Table 7 in para. 2.11); and
- (d) the number of outstanding patent applications (see Figures 4 and 5 in para. 2.15).

2.18 In response to Audit's enquiry, IPD informed Audit in February 2020 that in managing the Registries, IPD had made constant efforts in recent years to optimise deployment of resources in handling both daily examination work and development matters, mainly in the following areas:

- (a) from 2016 to 2019, IPD undertook a project to develop NIS to replace several Information Technology (IT) systems that had served both internal and external users since 2003;
- (b) given the unanticipated sophistication and complexity of NIS, the Registries had expended substantial efforts in the system analysis and design, user acceptance testing and data migration verification as well as system refinements, to ensure the smooth launch of the first phase of NIS in February 2019 and the final phase in December 2019 (in tandem with the launch of an IT sub-system to support implementation of the OGP system at the same time) (see para. 2.2 (b));
- (c) the above IT implementation and development work had taken a double toll on the resources of the Registries in 2019, due to bug fixing which was not uncommon given the size and complexity of the NIS project, familiarisation of the new system by Intellectual Property Examiners, early system refinements in key functionalities and user interface to address feedback from both internal and external stakeholders, etc.; and
- (d) while IPD had been able to generally maintain examination performance of the Registries and driving progress in development work in parallel until late 2018, the overall demand in 2019 proved exceedingly large as shown in the increase in the number of outstanding applications. Every effort had been made to arrest the trend, accounting for the improved situation

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towards end of 2019 and since, and the improvement was particularly significant for trade mark applications (see para. 2.6).

2.19 While noting the substantial time and efforts that IPD had put into the implementation and development of NIS and the sub-system to support the OGP system, in Audit's view, the situation was not satisfactory as the implementation of the new system had brought a negative impact on IPD's processing of applications. Audit considers that IPD needs to review the lessons learnt from the implementation and development of NIS, and take measures to enhance the planning for future projects.

Long waiting time for hearings on trade mark registration matters

2.20 Once a trade mark application has passed the search and examination stage, it will be published in the Hong Kong Intellectual Property Journal. Members of the public can view the published trade mark and lodge an opposition within three months. The applicant may withdraw his application or respond to the opposition by filing a counter-statement. The applicant and the opponent are given the opportunity, within certain time limits, to file evidence in turn in support of the application and the opposition respectively. When all necessary evidence has been received, the case is considered ready for hearing and will be entered on the pending hearing list. IPD will fix the date, time and place for the hearing and send a notice of this to the parties. It will endeavour to give the parties two months' notice prior to the date of the hearing.

2.21 IPD has set up a Hearings Team comprising specialised officers responsible for undertaking quasi-judicial functions of conducting hearings on trade mark registration matters.

2.22 The trade mark hearings handled by the Hearings Team consist of the following:

- (a) ***Ex parte registrability hearings.*** Where an applicant for registration of a trade mark disagrees with the objection raised by IPD against his application, he may request an ex parte registrability hearing. As at 31 December 2019, there were 21 registrability hearings still pending to be

heard, and the waiting time for the registrability hearing heard in the month was about 4 months;

- (b) ***Inter partes substantive hearings.*** These include substantive hearings in various types of proceedings such as opposition proceedings. Any third party may file an opposition against an application for registration of a trade mark accepted and published by IPD. The proceedings involve filing of statement of grounds and evidence by the parties in turn and an inter partes substantive hearing. As at 31 December 2019, there were 92 inter partes substantive hearings pending to be heard, and the average waiting time for the substantive hearings heard in the month was 11 months; and
- (c) ***Ex parte and inter partes interlocutory hearings.*** The most common type of interlocutory hearings concerning a single party involves application for extension of time by an applicant for registration of a mark to complete a step in the application process. Where IPD proposes to refuse a particular request for extension of time, the applicant may call for an ex parte interlocutory hearing. In a proceeding between two parties, various interlocutory issues may arise between the parties, e.g. extension of time, leave to amend statement of grounds, etc. If an interlocutory issue cannot be resolved by correspondence, a party may call for an inter partes interlocutory hearing. As at 31 December 2019, there were 4 interlocutory hearings pending to be heard, and the average waiting time for the interlocutory hearings heard in the month was about 1 month.

2.23 Regarding the average waiting time of 11 months for inter partes substantive hearings (see para. 2.22(b)), according to an internal assessment conducted by IPD in July 2018, the average waiting time was considered quite long as compared to the performance of overseas IP agencies and the Judiciary of Hong Kong:

- (a) the Intellectual Property Office of Singapore had a service commitment of hearing a trade mark case within 3 months from the date it is ready for hearing; and
- (b) according to the Hong Kong Judiciary Annual Report 2017, the average waiting time for the Civil Fixture List of the High Court, from application to fix date to hearing, was 163 days (i.e. around 5.5 months).

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2.24 In January 2020, IPD created a civil service Senior Solicitor post in the Hearings Team to replace the NCSC Senior Solicitor post to strengthen its hearings capacity.

2.25 According to IPD, trade mark is an important and valuable asset of a business as it is used to distinguish goods and services supplied by the business from those of its competitors. It is crucial to all trade mark owners that any proceedings concerning their trade marks should be determined expeditiously as any uncertainty concerning the use or protection of their trade marks would have a material impact on their business plans and strategies. Audit considers that IPD needs to closely monitor the waiting time for hearings and take measures to shorten the time when the situation warrants.

Room for improving the proportion of electronic filing for trade mark registration

2.26 The registers of trade marks, patents and designs are all maintained in electronic format. IPD has been providing electronic searching, filing, payment and publication services in respect of registration of trade marks, patents and designs since 2003. In June 2014, IPD submitted a paper to the Legislative Council's Finance Committee to seek approval for a new commitment of \$67 million for the redevelopment of the Electronic Processing Systems, Electronic-filing System and Online Search System. In the paper, IPD stated that the redevelopment of the systems would deliver the following benefits:

- (a) sustaining the edge of Hong Kong as an innovative and knowledge-based economy. IPD was once a pioneer of electronic filing in the global IP arena back in 2003. However, as time goes by, IPD's electronic systems and services begin to lag behind in comparison with those of other advanced IP offices;
- (b) better customer experience of electronic filers brought about by more user-friendly interface with new and enhanced functions; and

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- (c) wider adoption of electronic filing applications and electronic business in the community, resulting in higher efficiency and less paper consumption.

2.27 Audit examined the statistics of electronic filing for trade mark, patent and design applications in the period from 2015 to 2019. Audit noted that:

- (a) the percentage of electronic filing for all three types of applications had been increasing steadily, with trade mark applications having the lowest percentage of electronic filing persistently (see Table 8); and
- (b) the percentage of electronic filing for trade mark applications received by IPD was lower than those of other major IP offices outside Hong Kong (see Table 9).

Table 8

**Percentage of electronic filing for applications
(2015 to 2019)**

Type of applications	2015 (%)	2016 (%)	2017 (%)	2018 (%)	2019 (%)
Trade mark	62	64	66	69	73
Patent	81	81	83	88	91
Design	77	77	80	80	80

Source: IPD records

Remarks: In January 2020, the electronic filing rates of trade mark, patent and design applications were 78%, 95% and 77% respectively.

Table 9

**Percentage of electronic filing for
trade mark applications of other major IP offices outside Hong Kong
(2017)**

IP office	Percentage
European Union	99.0
Japan	82.9
Korea	96.0
Mainland	85.2
United States	99.9

Source: Website of the Five Trade Mark Offices

2.28 In the Director of Audit's Report No. 47 of October 2006, Audit recommended that the Director of Intellectual Property should consider taking measures to facilitate the use of electronic filing, such as introducing differential pricing for electronic filing and conventional paper filing. The CEDB agreed that IPD should review the benefits of differential pricing in the next costing exercise, having regard to the migration rates for various electronic services and the efficiency improvements that the services brought about.

2.29 In December 2007, IPD informed Audit that differential pricing as a means to encourage electronic filing was not worth pursuing because, among other things:

- (a) since IPD rolled out electronic filing in September 2004, all major filers had converted to use electronic filing in submitting their applications. Only a few major filers who were in the course of enhancing their IT systems were yet to become electronic filers. The rest of the filers were mainly private applicants who usually submitted their applications in paper form;

- (b) the migration rate of electronic filing had increased steadily even without differential pricing (Note 10), which reflected that financial incentive was not a cause to use electronic filing; and
- (c) to implement differential pricing, the then electronic filing system would need to be enhanced, costing about \$700,000. The expenditure for enhancing the system would not provide value for money.

2.30 According to IPD, during 2013 and 2014, various discussions among IPD, CEDB, the Financial Services and the Treasury Bureau (FSTB) and the Treasury on the setting of fees took place. In September 2014, CEDB, FSTB and IPD decided that it was not an opportune time to introduce differential pricing because, among other things:

- (a) almost all major filers had already converted to use electronic filing services; and
- (b) the introduction of differential pricing would require enhancement of the electronic filing system, which was then assessed to cost around \$1.5 million. By then a decision had been made for IPD to redevelop its aged IT systems (in use since around 2003) for rolling out in 2017-18. It would obviously not be cost-effective to enhance the electronic filing system to bring in differential pricing at that stage knowing that the overall system would be soon replaced by an entirely new IT infrastructure.

2.31 Audit noted that with the launch of the OGP system (see para. 2.2(b)) in December 2019, IPD introduced, with the support of CEDB, preferential fee reduction for electronic filing of patent applications. However, as at 31 January 2020, similar preferential fee reduction had not been introduced for electronic filing of trade mark or design applications. IPD needs to explore measures to further increase the rate of electronic filing for trade mark applications, for example by:

Note 10: *According to IPD, from September 2004 to November 2007, the migration rates of electronic filing increased from 13% to 58% for trade mark applications, from 2% to 37% for patent applications, and from 1% to 41% for design applications.*

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- (a) conducting user surveys to ascertain the reasons for the relatively lower rate of electronic filing of trade mark applications, and take measures to address the issues accordingly; and
- (b) introducing preferential pricing for electronic filing of trade mark applications in due course.

Audit recommendations

2.32 Audit has *recommended* that the Director of Intellectual Property should:

- (a) **closely monitor and continue to take measures to reduce the backlog of outstanding trade mark applications;**
- (b) **take measures to expedite the processing of trade mark applications, with a view to increasing the percentage of trade marks registered within six months from the receipt of their applications;**
- (c) **take measures to shorten the time taken to issue the first letters during the deficiencies checking stage for trade mark applications;**
- (d) **closely monitor and take measures to reduce the backlog of outstanding patent applications;**
- (e) **review the lessons learnt from the implementation and development of the new IT system, and take measures to enhance the planning for future projects;**
- (f) **closely monitor the waiting time for hearings and take measures to shorten the time when the situation warrants; and**
- (g) **explore measures to further increase the rate of electronic filing for trade mark applications, for example by:**
 - (i) **conducting user surveys to ascertain the reasons for the relatively lower rate of electronic filing of trade mark**

applications, and take measures to address the issues accordingly; and

- (ii) introducing preferential pricing for electronic filing of trade mark applications in due course.

Response from the Government

2.33 The Director of Intellectual Property generally agrees with the audit recommendations. He has said that:

- (a) IPD has all along attached great importance to enhancing the operations of the Registries in better serving the public. The investment in the development of NIS is a demonstration of its commitment to providing quality registration services;
- (b) IPD will make the best use of the revamped IT infrastructure to improve and excel in future performance, and will enhance the implementation and resource planning for future IT projects;
- (c) over the years, IPD has introduced various measures to enhance service delivery in quasi-judicial proceedings including grooming up a larger pool of experienced hearing officers, conducting active case management where appropriate and enabling e-submission of hearing documents through NIS. In parallel, IPD is considering room for streamlining the hearing procedures. IPD will continue holistic enhancements, notably in shortening the waiting times for conducting hearings and issuing decisions, by making cost-effective use of its resources available; and
- (d) with the introduction of a host of user-friendly features in NIS (e.g. additional means of electronic payment and customer authentication, fully web-based online electronic forms, functional interface between search and filing, and provision of business-to-business electronic filing solutions), the rate of electronic filing of trade mark applications has increased by nearly 10% in about one year's time. IPD will continue to explore feasible ways to further boost the rate of electronic filing for trade mark applications.

Performance measurement and reporting

2.34 Performance measurement includes developing and reporting performance measures. It helps enhance the performance, transparency and accountability of an organisation. IPD has included in its Controlling Officer's Report (COR) 20 key performance measures in respect of its statutory functions, comprising:

- (a) 6 targets relating to the timeliness of processing applications for registration of trade marks, patents and designs; and
- (b) 14 indicators relating to number of applications received, number of successful applications (e.g. number of trade marks and designs registered and number of patents granted) and number of correspondences issued to the applicants.

Need to consider setting performance targets on some key steps in the application processes

2.35 Audit analysed the definition of the 6 targets set in the COR in relation to IPD's performance of its statutory functions. Audit noted that the targets did not cover the timeliness of processing applications for the registration of trade marks, patents and designs during some key stages (see Table 10):

- (a) ***Trade mark registration.*** No target or indicator was set in relation to the timeliness of issuing the first letters to applicants (see para. 2.11) during the deficiencies checking stage;
- (b) ***Patent registration.*** No target or indicator was set in relation to the timeliness of processing applications during the examination on formal requirements stage; and
- (c) ***Design registration.*** No target or indicator was set in relation to the timeliness of processing applications during the examination on formal requirements stage.

Table 10

**Analysis of targets set in COR
for trade mark, patent and design applications
(2019)**

Trade marks	Patents	Designs
<u>Deficiencies checking</u> No target or indicator	<u>Examination for according a date of filing</u> <ul style="list-style-type: none"> • processing standard patent applications within ten days • processing short-term patent applications within ten days 	<u>Examination for according a date of filing</u> <ul style="list-style-type: none"> • processing applications within ten days
<u>Search and examination</u> <ul style="list-style-type: none"> • providing first response within two months • providing second response within three months 	<u>Examination on formal requirements</u> No target or indicator	<u>Examination on formal requirements</u> No target or indicator
<u>Publication for opposition</u> <ul style="list-style-type: none"> • delivering hearing decisions on trade marks within six months 	Not applicable	Not applicable

Source: Audit analysis of IPD records

2.36 For trade mark applications, Audit analysis showed that IPD took considerable time to issue the first letter during the deficiencies checking stage in some cases (see para. 2.11 and Table 7). For patents granted and designs registered in the period from January 2018 to October 2019, Audit conducted an analysis on the time taken for IPD to issue the first report during examination on formal requirements of applications for patents and designs. Audit noted that:

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- (a) for standard patent applications, the time taken for IPD to issue the first report during examination on formal requirements for request to record ranged from less than one day to 766 days, averaging 133 days;
- (b) for short-term patent applications, the time taken for IPD to issue the first report during examination on formal requirements ranged from less than one day to 321 days, averaging 94 days;
- (c) for design applications, the time taken for IPD to issue the first report during examination on formal requirements ranged from less than one day to 308 days, averaging 146 days; and
- (d) the average processing time of standard patent, short-term patent and design applications for patents granted and designs registered over the same period were 144 days, 193 days (Note 11) and 176 days respectively. The average time taken for IPD to issue the first report during examination on formal requirements constituted a considerable proportion of the average processing time of the respective types of applications, equivalent to 92 % (133 of 144 days) for standard patents, 49 % (94 of 193 days) for short-term patents and 83 % (146 of 176 days) for designs (see Table 11).

Note 11: *According to IPD, for short-term patent applications, an applicant may request deferral of grant up to one year after the date of filing of application and the deferral period will inevitably lengthen the processing time. Information was not available on the number of applications for which the applicants had requested deferral of grant.*

Table 11

**Time taken to issue the first report during examination on
formal requirements for patent and design applications
(January 2018 to October 2019)**

Type of applications	Time taken (day)		
	Shortest	Longest	Average
Standard patents	< 1	766 (Note)	133
Short-term patents	< 1	321	94
Designs	< 1	308	146

Source: Audit analysis of IPD records

Note: The longest time taken in a case was 766 days. According to IPD, the long time taken was attributable to the processing of the requests from the applicant for recordal of merger and change of name of the applicant before issuing the first report.

Taking into account that the amount of time taken to issue the first letter during the deficiencies checking stage for some trade mark applications was considerable, and that the average time taken to issue the first report during examination on formal requirements for patent and design applications constituted a considerable proportion of the average processing time of the respective types of applications, IPD needs to review the coverage of its existing targets on the timeliness of processing trade mark, patent and design applications and consider setting a target on the time taken to issue the first report during examination on formal requirements for patent and design applications.

Audit recommendation

2.37 Audit has *recommended* that the Director of Intellectual Property should review the coverage of IPD's existing targets on the timeliness of processing trade mark, patent and design applications and consider setting a target on the time taken to issue the first report during examination on formal requirements for patent and design applications.

Response from the Government

2.38 The Director of Intellectual Property generally agrees with the audit recommendation. He has said that IPD will review the coverage of the existing targets for processing IP applications with reference to overseas experience and having regard to its resources and competing priorities.

Costing of fees and charges

2.39 It is stipulated in the Financial Circular No. 6/2016 entitled “Fees and Charges” issued by FSTB that:

- (a) it is the Government’s policy that fees charged by the Government should in general be set at levels adequate to recover the full cost of providing the goods or services;
- (b) Controlling Officers should conduct costing reviews for fees once a year. The annual fee reviews should be supported by costing statements duly prepared and vetted in accordance with the Costing Manual published by the Director of Accounting Services. The vetted costing statements should be submitted to FSTB on an annual basis to reflect the latest cost recovery position. According to the Costing Manual, for bureaux and departments not served by a Senior Treasury Accountant or above (e.g. IPD), the costing statements should be submitted to the Treasury for vetting; and
- (c) Controlling Officers are duty bound to achieve as early as practicable full-cost recovery (or other targets that have been agreed).

Some costing statements not submitted

2.40 After conducting a fee review in 2014 for the Registries for 2014-15 price level, IPD revised the fees in respect of the Trade Marks Registry and the Designs Registry. Audit reviewed the annual costing reviews for the Registries for 2015-16 to 2019-20 price levels and found the following issues:

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- (a) **2015-16.** The annual fee reviews in respect of the Registries were supported by costing statements vetted by the Treasury, but the vetted costing statements were not submitted to FSTB;
- (b) **2016-17 and 2017-18.** The costing statements for the annual fee reviews in respect of the Registries were not vetted by the Treasury and were not submitted to FSTB;
- (c) **2018-19.** The annual fee reviews in respect of the Trade Marks Registry and the Designs Registry were supported by costing statements vetted by the Treasury, but the vetted costing statements were not submitted to FSTB. According to IPD, the implementation of the revised and new fees would take effect upon the launch of the OGP system in 2019-20. Accordingly, it was not necessary for IPD to submit the costing statements in respect of the Patents Registry for 2017-18 and 2018-19; and
- (d) **2019-20.** The costing statements in respect of the Registries were submitted to FSTB, but only that of the Patents Registry had been vetted by the Treasury (see Table 12).

Registration of trade marks, patents and designs

Table 12

IPD's submission of costing statements to the Treasury and FSTB (2015-16 to 2019-20 price level)

Registry	Price level				
	2015-16	2016-17	2017-18	2018-19	2019-20
Trade Marks Registry	✓	×	×	✓	✓ (Note 2)
Patents Registry	✓	×	N/A (Note 1)	N/A (Note 1)	✓ (Note 2)
Designs Registry	✓	×	×	✓	✓ (Note 2)

Legend:

✓ Submitted to FSTB

✓ Submitted to the Treasury for vetting but not submitted to FSTB

×

Not submitted to the Treasury for vetting and not submitted to FSTB

N/A Not applicable

Source: *Audit analysis of IPD records*

Note 1: *It was not necessary for IPD to submit the costing statements in respect of the Patents Registry for 2017-18 and 2018-19 (see para. 2.40(c)).*

Note 2: *Costing statements for the Trade Marks Registry and the Designs Registry submitted to FSTB had not been submitted to the Treasury for vetting. Only the costing statement of the Patents Registry submitted to FSTB had been vetted by the Treasury.*

Registration of trade marks, patents and designs

2.41 According to IPD, it had updated the costing statements for the Registries annually since 2015-16, notwithstanding that some costing statements were not submitted to the Treasury for vetting, and some costing statements were not submitted to FSTB. Audit examined the projected cost recovery rates in the costing statements provided by IPD and noted that:

- (a) since 2017-18, the Trade Marks Registry had been falling short of the full-cost recovery target by more than 10%, ranging from 12.1% in 2017-18 to 20.4% in 2019-20; and
- (b) since 2016-17, the Designs Registry had been over-achieving the full-cost recovery target by more than 10%, ranging from 17.4% in 2019-20 to 35.8% in 2017-18.

Table 13 shows the projected cost recovery rates of the Registries from 2015-16 to 2019-20.

Table 13

**Projected cost recovery rates of the Trade Marks Registry,
the Patents Registry and the Designs Registry
(2015-16 to 2019-20)**

Registry	Projected cost recovery rate (%)				
	2015-16	2016-17	2017-18	2018-19	2019-20
Trade Marks Registry	84.7%	99.4%	87.9%	80.6%	79.6%
Patents Registry	100.7%	161.4%	167.0%	100.9%	100.0%
Designs Registry	106.6%	131.4%	135.8%	120.8%	117.4%

Source: IPD records

Registration of trade marks, patents and designs

2.42 On 15 August 2019, the Financial Secretary announced that the Government would implement a fee review moratorium on fees and charges with effect from 15 August 2019 until 31 December 2020 with a view to supporting the business and relieving people's financial burden. In the same month, FSTB informed all bureaux and departments that when the moratorium remained in force, bureaux and departments were not required to review the relevant fees and charges in accordance with the procedures set out in the Financial Circular No. 6/2016 on fees and charges.

2.43 Audit considers that IPD needs to ensure that the prevailing government guidelines on fees and charges are complied with. IPD also needs to keep in view the development in the arrangements relating to government fees and charges, and resume conducting fee reviews when appropriate.

Audit recommendations

2.44 **Audit has *recommended* that the Director of Intellectual Property should:**

- (a) **ensure that the prevailing government guidelines on fees and charges are complied with; and**
- (b) **keep in view the development in the arrangements relating to government fees and charges, and resume conducting fee reviews when appropriate.**

Response from the Government

2.45 The Director of Intellectual Property agrees with the audit recommendations. He has said that IPD has tightened the procedures and submitted the relevant costing statements for 2019-20 to FSTB. Moreover, IPD is planning to set up a business management unit underpinned by accounting professionals to handle fees and charges matters in a dedicated manner.

PART 3: PROMOTION OF INTELLECTUAL PROPERTY PROTECTION

3.1 This PART examines IPD's efforts in promoting IP protection (see Note 4 to para. 1.6), focusing on the following areas:

- (a) publicity and educational activities (paras. 3.2 to 3.12);
- (b) administration of the No Fakes Pledge Scheme (NFP Scheme) (paras. 3.13 to 3.35); and
- (c) management of the IP Manager Scheme (paras. 3.36 to 3.44).

Publicity and educational activities

3.2 Over the years, IPD has launched various publicity and educational activities to promote public awareness of IP rights. Its publicity and educational activities include:

- (a) ***Seminars and exhibitions.*** Through seminars and exhibitions, IPD helps companies understand the importance of IP rights protection and explains to them relevant laws to protect their IP rights in Hong Kong;
- (b) ***School visits.*** IPD carries out visits to primary and secondary schools with the aim of promoting respect of IP rights among students. In 2019, IPD conducted 81 school visits, covering 20,730 students;
- (c) ***Media announcements.*** IPD produces Announcements of Public Interest and broadcasts them in different medias to promote respect for IP rights;
- (d) ***Territory-wide promotion.*** IPD has launched the "I Pledge" Campaign to encourage pride in the selling and buying of genuine goods among consumers. It has also launched the NFP Scheme since 1998 to promote the use and sale of genuine products, targeting visitors, tourists and retailers (see para. 3.13); and

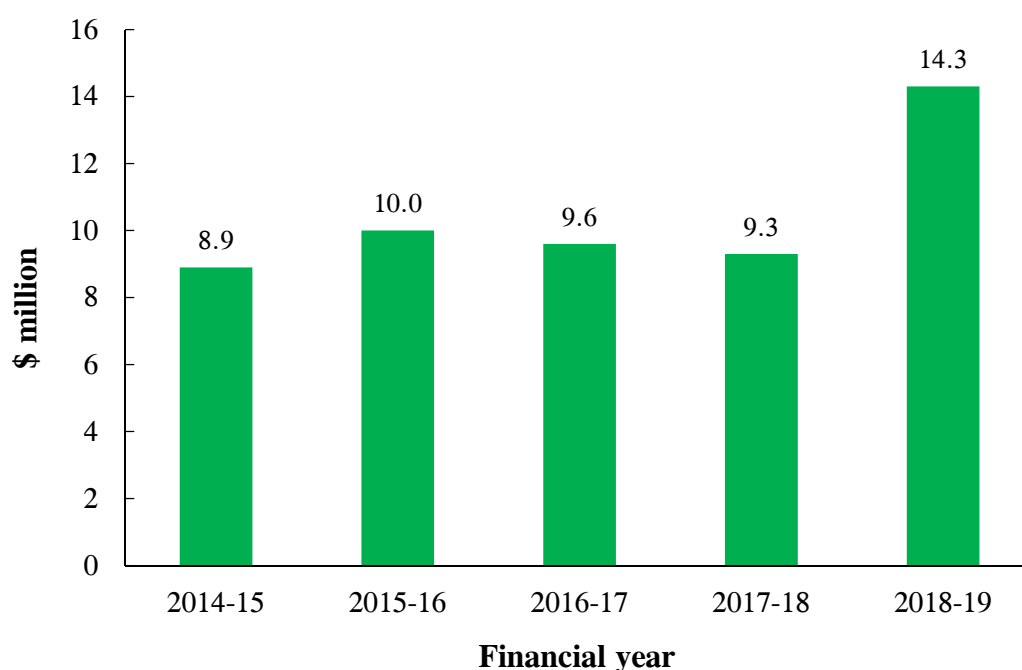
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- (e) **Promotional materials and learning aids.** IPD produces various promotional materials (e.g. leaflets, posters, bookmarks, etc.) and learning aids (in both online and manual forms) about IP protection.

In 2018-19, IPD incurred expenditure of \$14.3 million on publicity and educational activities (see Figure 6).

Figure 6

Expenditure on publicity and educational activities (2014-15 to 2018-19)



Source: Audit analysis of IPD records

Need to step up efforts in promoting public awareness of IP protection

3.3 In order to evaluate the change in awareness level on IP among the public, IPD has periodically conducted the Survey on Public Awareness of Intellectual Property Right Protection (PAIP survey) since 1999. The PAIP survey has been conducted every two years since 2008. The latest PAIP survey was completed in 2018. In addition to public awareness of IP protection, the PAIP survey also covered public's awareness of IPD and its publicity and educational activities.

3.4 According to IPD, in overall terms, the awareness of IP rights protection and respect for IP rights had been enhanced steadily among the general public in Hong Kong over the years, which could be attributable to IPD's sustained promotional efforts. The following indicators in the 2018 PAIP survey could illustrate the performance in this area after the previous Audit review in 2006:

- (a) **Awareness.** Only 18.9% of the respondents indicated that they did not know about IP rights, down from 28.7% in 2005;
- (b) **Attitude.** 78.1% of the respondents agreed that it was morally wrong to buy pirated or counterfeit goods even knowing that they were IP right infringing items, significantly up from 66.5% in 2005, and
- (c) **Behaviour.** 75.8% of the respondents indicated that they had never bought any pirated or counterfeit goods, up from 58.4% in 2005.

3.5 Audit reviewed the results of the PAIP survey completed in the period from 2008 to 2018 and noted that there was room for improvement in the effectiveness of IPD's publicity and educational activities. For the PAIP survey completed in 2018, of the 1,003 respondents interviewed:

- (a) 74% were not aware that IPD was the Government department responsible for promoting the protection of IP rights in Hong Kong. The percentage decreased from 83% in 2008;
- (b) 49% were not aware of the promotional activities of IPD. The percentage increased significantly from 20% in 2008; and
- (c) 36% considered that the promotional activities of IPD were quite/very ineffective. The percentage increased from 27% in 2008.

3.6 Audit considers that IPD needs to step up efforts on promoting public awareness of IP protection.

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Need to review the promotional expenditure spent on different channels

3.7 From time to time, IPD places advertisements through different channels to promote IP protection. According to the PAIP survey, the perceived most effective channel to place these advertisements had changed considerably over the years from 2008 to 2018 (see Table 14).

Table 14
Perceived most effective channel for promoting IP protection
(2008 to 2018)

Promotion channels	Percentage of respondents						Change in percentage points between 2008 and 2018
	2008	2010	2012	2014	2016	2018	
Emails and websites (Note)	1.0%	7.3%	6.9%	5.7%	17.3%	19.5%	+18.5%
IPD's website	12.6%	11.6%	16.6%	22.7%	25.8%	30.1%	+17.5%
School	15.6%	14.9%	22.8%	19.1%	26.6%	23.3%	+7.7%
Television	84.6%	82.6%	76.2%	70.9%	68.3%	66.9%	-17.7%
Newspaper/magazine	29.0%	25.8%	20.9%	23.0%	28.4%	13.4%	-15.6%
Radio	20.8%	23.6%	16.4%	20.4%	16.0%	11.4%	-9.4%
Advertisements on bus	7.3%	6.8%	5.5%	4.7%	4.4%	5.1%	-2.2%
Advertisements in MTR	7.1%	7.0%	5.5%	5.9%	5.3%	5.5%	-1.6%

Source: Audit analysis of IPD records

Note: Websites refer to websites other than that of IPD.

3.8 IPD adjusted its allocation of resources in different promotional channels over the years. Audit analysed the expenditure incurred by IPD in 2018-19 on placing advertisements through different channels and noted that:

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- (a) while 19% of the expenditure was spent on advertisements at the airport and immigration control points, its effectiveness was not evaluated in the PAIP survey; and
- (b) while only a small percentage of the respondents perceived that advertisements on bus was the most effective advertising channel, 11% of the expenditure was spent on bus advertisements, and the amount was even higher than that spent on other channels (see Table 15) which were perceived to be more effective according to the PAIP survey, such as television and IPD's website (see Table 14).

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Table 15

Expenditure on advertisements for promoting IP protection (2016-17 to 2018-19)

Promotion channels	Expenditure (\$'000)			Change between 2016-17 and 2018-19
	2016-17	2017-18	2018-19	
Websites other than IPD's website	271 (6%)	457 (11%)	1,683 (34%)	+1,412 (+521%)
Advertisements at airport and immigration control points	430 (9%)	743 (19%)	921 (19%)	+491 (+114%)
Television	193 (4%)	100 (2%)	448 (9%)	+255 (+132%)
Advertisements on bus	350 (8%)	366 (9%)	566 (11%)	+216 (+62%)
Interactive drama at schools	686 (15%)	686 (17%)	778 (16%)	+92 (+13%)
IPD's website	144 (3%)	148 (4%)	132 (3%)	-12 (-8%)
Newspaper/magazine	341 (7%)	352 (9%)	256 (5%)	-85 (-25%)
Advertisements in MTR	2,182 (48%)	808 (20%)	168 (3%)	-2,014 (-92%)
Advertisements on tram	—	361 (9%)	—	—
Overall	4,597 (100%)	4,021 (100%)	4,952 (100%)	+355 (+8%)

Source: Audit analysis of IPD records

3.9 In response to Audit's enquiry, IPD informed Audit in February 2020 that:

- (a) it was difficult to evaluate the effectiveness of advertisements objectively at the airport and other immigration control points as the promotional messages were targeted at the tourists entering Hong Kong whereas the PAIP surveys only covered local households;
- (b) as advertisements on buses could reach audience different from those of the television, a modest percentage of the advertising expenditure was spent on buses with a view to enlarging the coverage of different audience; and
- (c) as IP protection in the online environment had become increasingly important in recent years, IPD had put in additional resources to raise public awareness on this front through appropriate channels. IPD had been tracking more indicators through successive surveys and noted positive outcome in the 2018 PAIP survey:
 - (i) **Attitude.** 70.2% of the respondents agreed that it was morally wrong to listen to the music or watch the movies/television shows online even knowing that they were pirated versions, up from 59.4% in the first finding of 2014;
 - (ii) **Positive behaviour.** 44.3% of the respondents said that they would definitely or possibly pay authorised websites for copyright works, significantly up from 21% in the first finding of 2008; and
 - (iii) **Infringing behaviours.** 97.6% of the respondents said that they had never downloaded music, movies, television shows, computer software, games or electronic books online and then upload them on the Internet, which was the highest proportion since 2004.

3.10 The results of the 2018 PAIP survey showed that an increasing percentage of respondents perceived emails and websites as the most effective channel to promote IP protection. Audit considers that IPD needs to, in the light of the results of the PAIP surveys, review and revise where necessary, the distribution of promotion efforts among the promotion channels for IP protection with a view to achieving the best promotion effect.

Audit recommendations

3.11 Audit has *recommended* that the Director of Intellectual Property should:

- (a) step up efforts on promotion of public awareness of IP protection; and
- (b) in the light of the results of the PAIP surveys, review and revise where necessary, the distribution of promotion efforts among the promotion channels for IP protection with a view to achieving the best promotion effect.

Response from the Government

3.12 The Director of Intellectual Property generally agrees with the audit recommendations. He has said that:

- (a) the successive survey findings over decades have provided IPD with useful information to keep abreast of the level of public awareness of IP protection and to keep track of the changing patterns of public attitudes and behaviours towards IP protection and infringements; and
- (b) IPD will continue to take into account the survey findings and stakeholders' input, as well as policy priorities and the changing economic, social and technology environments, in deploying resources on public education and promotional activities.

Administration of the No Fakes Pledge Scheme

3.13 IPD launched the NFP Scheme in 1998 with the aim of encouraging retailers to make a pledge of selling genuine goods, promoting the awareness of IP protection among retailers and consumers, so as to enhance tourists' and consumers' confidence about shopping in Hong Kong. Participating merchants in the NFP Scheme must volunteer to make a pledge not to sell fakes, and may post the No Fakes (NF) stickers and place tent cards in their shops.

3.14 To participate in the NFP Scheme, a retail merchant has to be a member of one of the issuing bodies. Up to 31 December 2019, nine trade associations had participated in the NFP Scheme as issuing bodies. A trade organisation or an organisation is eligible to become an issuing body under the NFP Scheme if it is of reputable status in the retail industry and has satisfied the following conditions:

- (a) it has been established in Hong Kong for over 3 years; and
- (b) it requests its members to confirm and guarantee no IP right offences in the past 12 months.

3.15 The membership of the NFP Scheme is free of charge. It is valid for one calendar year (from 1 January to 31 December) and subject to annual renewal. As at 31 December 2019, there were 1,225 participating retail merchants, covering 6,511 physical shops and 166 online shops. Participating retail merchants are required to comply with a set of Code of Practice issued by IPD. IPD acts as the coordinator of the NFP Scheme, and there are four supporting organisations for the NFP Scheme including the Customs and Excise Department (C&ED). The responsibilities of IPD, the issuing bodies and the supporting organisations are as follows:

- (a) **IPD:**
 - (i) co-ordinating with the issuing bodies and supporting organisations;
 - (ii) maintaining data records of the NFP Scheme and answering public enquiries;
 - (iii) updating and publicising any suspended and terminated membership records of the NFP Scheme;
 - (iv) promoting the NFP Scheme to the public; and
 - (v) supplying the NF stickers and tent cards to the issuing bodies;

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(b) *issuing bodies:*

- (i) promoting the NFP Scheme to their members;
- (ii) passing new membership applications and renewal applications to C&ED for vetting;
- (iii) issuing the membership and distributing the NF stickers and tent cards to successful applicants;
- (iv) updating IPD on any new, withdrawn, terminated membership or changes of information of members; and
- (v) suspending or terminating the membership of a retail shop who has failed to comply with the Code of Practice, or if any action has been taken against that member by C&ED in relation to IP rights infringement; and

(c) *supporting organisations:*

- (i) assisting in monitoring compliance and providing market surveillance; and
- (ii) conducting vetting procedures for membership application and renewal (for C&ED only).

Room for boosting the membership of the NFP Scheme

3.16 Audit noted that in the period from 2015 to 2019, the number of physical shops covered under the NFP Scheme decreased by 274 (4%) from 6,785 in 2015 to 6,511 in 2019. Since January 2018, the NFP Scheme has been extended to cover members' online shops if certain conditions are satisfied (Note 12). Up to 31 December 2019, only 166 online shops were covered under the NFP Scheme (see Table 16).

Table 16

**Number of participating retail merchants and shops
covered under the NFP Scheme
(2015 to 2019)**

Nos.	As at 31 December				
	2015	2016	2017	2018	2019
Retail merchants	1,054	1,052	1,163	1,157	1,225
Physical shops	6,785	6,685	6,883	6,587	6,511
Online shops	—	—	—	94	166

Source: Audit analysis of IPD records

3.17 Under the NFP Scheme, participating shops are classified into 13 categories (see Table 17) according to their business nature. Audit analysed the 6,677 shops that were covered under the NFP Scheme in 2019 and noted that:

- (a) for some categories, only a small number of shops were covered under the NFP Scheme. For example, only 18 shops in the category “Books, design and crafts” were covered under the NFP Scheme; and

Note 12: *One of the key conditions for an online shop to be eligible to join the NFP Scheme is that the shop must have its own registered domain name obtained from accredited domain name registrars and valid Secure Sockets Layer certificate to ensure the security of data transmission during the transaction process.*

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- (b) shops under the two categories “Food and supermarkets” and “Beauty and health” contributed to 40.8% of the shops participating in the NFP Scheme (see Table 17).

Table 17

**Shops covered under the NFP Scheme analysed by business nature
(31 December 2019)**

Category	Number of shops	Percentage
1. Audiovisual, digital products and electrical appliances	592	7.4%
2. Baby and children merchandise	473	5.9%
3. Beauty and health	1,162	14.6%
4. Books, design and crafts	18	0.2%
5. Clothing and accessories	381	4.8%
6. Department stores and general merchandise	205	2.6%
7. Drug stores and pharmacies	782	9.8%
8. Food and supermarkets	2,096	26.2%
9. Furniture and home	565	7.1%
10. Handbags, shoes and leather goods	545	6.8%
11. Jewellery and watches	713	8.9%
12. Optical goods	105	1.3%
13. Others (e.g. telecommunication)	354	4.4%
Total	7,991 (Note)	100.0%

Source: Audit analysis of IPD records

Note: The total was greater than the number of 6,677 shops covered under the NFP Scheme as each shop can choose to be categorised under one or two categories. In 2019, 1,314 shops were classified under two categories (6,677 + 1,314 = 7,991).

3.18 In response to Audit's enquiry, IPD informed Audit in February 2020 that:

- (a) from 2015 to 2019, the number of retail merchants under the NFP Scheme had steadily increased by 16% (from 1,054 in 2015 to 1,225 in 2019);
- (b) in view of changes in shopping mode and habits, in 2018, the NFP Scheme had been extended to cover online shops and the number of online shops had increased by 77% between 2018 and 2019 (from 94 in 2018 to 166 in 2019); and
- (c) the existing nine issuing bodies were the major trade associations in the retail industry in Hong Kong covering a broad range of retail outlets and consumer goods. IPD would continue to promote the NFP Scheme to enhance its attractiveness to the retail sector and explore if there were other trade associations that were interested to join the NFP Scheme as issuing bodies.

3.19 Audit noted that since 2011, there had been no applications or nomination of new issuing bodies. In view of the small number of shops in some categories, Audit considers that IPD needs to explore potential trade associations and organisations and invite them to become new issuing bodies of the NFP Scheme with a view to boosting the membership of the NFP Scheme. According to a survey published by the Census and Statistics Department in June 2019, the percentage of people that had shopped online in the last 12 months increased significantly from 16% in 2009 to 36% in 2018 (Note 13). Audit considers that IPD should keep in view the trend of online shopping and boost the coverage of the NFP Scheme among online shops as far as possible.

Need to ensure timely renewal of membership

3.20 The membership of the NFP Scheme is valid from 1 January to 31 December of a year and is renewable annually. IPD usually reminds the issuing bodies in August to request their members to renew their membership. Upon receipt

Note 13: Data was extracted from the *Thematic Household Survey Report No. 67* published by the Census and Statistics Department in June 2019.

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of the membership renewal application forms, the issuing bodies will pass them to C&ED through IPD for the following vetting procedures:

- (a) whether the shops have clean conviction records for the past 12 months; and
- (b) whether the shops have been raided for IP rights infringement with investigation or prosecution outcome outstanding.

Upon receipt of C&ED's clearance, IPD prepares a new set of NF stickers and tent cards for delivery to the physical shops directly or through the issuing bodies. The stickers and tent cards show the expiry day of the membership (see Figure 7). For online shops, IPD prepares softcopy of NF logo for their display online.

Figure 7

A “No Fakes” sticker



Source: IPD records

3.21 IPD did not keep track of the membership renewal date of each member and information was not available for Audit to analyse the timeliness of membership renewal in past years. Audit examined the list of participating retail merchants in 2020 (as at 11 February) and noted that the number of participating retail merchants

decreased considerably by 318 (26%) from 1,225 as at 31 December 2019 to 907 as at 11 February 2020. Audit reviewed the records of the 318 retail merchants who were members in 2019 but not members in 2020 and found that of these retail merchants:

- (a) 307 (97%) had not submitted their membership renewal applications; and
- (b) 11 (3%) had submitted their membership renewal applications and were undergoing the vetting procedures for membership renewal.

3.22 In Audit's view, from December to February, especially in the run-up to the Lunar New Year is one of the peak shopping periods, if not the busiest season, of the year. The considerable reduction in the number of member retailers in the first few months every year will impact the effectiveness of the NFP Scheme. Audit considers that IPD needs to, in collaboration with the issuing bodies, expedite the membership renewal for the participating merchants and shops of the NFP Scheme as far as possible.

Need to strengthen the controls over the use of the NF logo

3.23 If a member intends to use the NF logo in its advertisements, promotional materials, business website, mobile application and social media platform, prior written approval must be obtained from IPD. In addition, members of the NFP Scheme are required to return the NF stickers and tent cards to the issuing bodies and remove all the NF logos from their publicity materials upon expiry, suspension or termination of their membership.

3.24 According to IPD, measures have been put in place to handle unauthorised use of NF logo by shops who are not members of the NFP Scheme. IPD owns the copyright in the NF logo and use of the logo without IPD's consent constitutes an infringement. When an unauthorised use of the logo comes to IPD's attention, a cease and desist letter would be issued to the infringing retailer demanding it to take down the infringing logo and refrain from all infringement act. For persistent infringements, IPD will work with the Department of Justice to institute legal proceedings against the infringers in appropriate cases.

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3.25 From 22 to 24 January 2020, Audit conducted site visits to 9 physical shops whose 2020 membership had been renewed. Audit noted that of the 9 physical shops visited:

- (a) 5 (56%) had not displayed any NF stickers or tent cards;
- (b) 2 (22%) were displaying the correct stickers or tent cards of 2020;
- (c) 1 (11%) was displaying the stickers or tent cards of 2019 and 2020; and
- (d) 1 (11%) was displaying the stickers of 2018, 2019 and 2020 at the same time.

Audit noted that IPD had not maintained records of the number of expired NF stickers and tent cards returned from participating merchants, and there were no procedure guidelines on returning expired NF stickers and tent cards to issuing bodies for disposal. Audit considers that IPD needs to promulgate procedure guidelines on returning expired NF stickers or tent cards to issuing bodies for disposal.

3.26 In addition, in the period from January 2017 to December 2019, the membership of 17 retail shops was suspended or terminated. Audit conducted site visits to 9 of these 17 retail shops on 6 January 2020 and revealed that 2 (22%) (membership was terminated in January 2019 and May 2019 respectively) were still displaying the NF logo on the promotional materials (e.g. leaflets) in their shops. Audit considers that IPD needs to take measures to prevent misuse of the NF logo on promotional materials by shops which are not members of the NFP Scheme.

Need to ensure prompt follow-up action taken upon a raid operation by C&ED

3.27 According to the procedures agreed between IPD and C&ED, during a raid operation on a member shop for IP rights offence, if C&ED finds that the shop is displaying NF stickers and/or tent cards, C&ED should seize all NF stickers and tent cards, and inform IPD promptly so that IPD can take follow-up actions on the shop's membership status. IPD should arrange a hearing panel with the issuing body concerned within seven days before making a decision to suspend or terminate the membership of the shop. C&ED should update IPD the progress of the investigation

on the shop concerned (e.g. in case of prosecution, the date and result of the court hearing).

3.28 Audit examined the records of 17 retail shops whose membership was suspended or terminated in the period from January 2017 to December 2019, and revealed that prompt follow-up actions had not been taken against three member shops after raid operations were taken by C&ED:

- (a) for two shops (Shops A and B), C&ED only informed IPD one year after the raid operations. The membership of the shops concerned was only terminated after the court convictions (see Table 18);
- (b) for one shop (Shop C), C&ED had not informed IPD of the raid operation taken and the court conviction. The membership of the shop concerned was not terminated until nine months after the court conviction when IPD noted the court conviction during a random check (see Table 18); and
- (c) all of these three shops successfully renewed their membership after the raid operations and no irregularities were reported by C&ED during the vetting procedures for membership renewal. For Shop C, C&ED explained to IPD that conviction records of the shop were not found by vetting due to a mismatch of records during the system interface.

Table 18

**Long time lapse between raid operation and membership termination
(June 2016 to June 2019)**

Shop	Date of			
	Raid operation	IPD being informed of the raid operation	Court conviction	Membership termination
A	16.6.2016	12.6.2017	21.11.2017	21.11.2017
B	5.8.2016	18.8.2017	26.7.2017	18.8.2017
C	Not available	Not available	26.9.2018	5.6.2019

Source: *Audit analysis of IPD records*

3.29 Audit considers that IPD needs to, in collaboration with C&ED, take measures to ensure that prompt follow-up actions are taken against participating merchants of the NFP Scheme upon raid operations for IP rights infringement.

Need to improve the mobile application of the NFP Scheme

3.30 IPD has developed a mobile application named “No Fakes Pledge Shop Search” (NFP App) to facilitate tourists and consumers searching shop information of all participating shops under the NFP Scheme. As at 31 December 2019, the total number of downloads of the NFP App was approximately 54,000.

3.31 Audit used the NFP App to check the information of 20 existing member shops in 7 districts and noted that there was room for improvement:

- (a) ***Location of shops not correctly shown.*** The NFP App allowed users to check the location of member shops. However, Audit noted that for 6 (30%) shops checked, the locations shown by the NFP App were incorrect. For example, a shop located in Yuen Long was incorrectly shown as located in Tsim Sha Tsui; and

- (b) ***Business categories not correctly shown.*** IPD classified the member shops into 13 categories according to their business nature (see Table 17 in para. 3.17). Audit noted that for 4 (20%) shops with business nature classified as “Beauty and Health”, “Drug stores and pharmacies”, “Jewellery and watches” and “Audiovisual, digital products and electrical appliances” respectively according to IPD’s records, they were incorrectly shown as “Others” in the NFP App.

3.32 Audit considers that IPD needs to take measures to improve the accuracy of the information provided by the NFP App.

Audit recommendations

3.33 Audit has *recommended* that the Director of Intellectual Property should:

- (a) **explore potential trade associations and organisations and invite them to become new issuing bodies of the NFP Scheme with a view to boosting the membership of the NFP Scheme;**
- (b) **keep in view the trend of online shopping and boost the coverage of the NFP Scheme among online shops as far as possible;**
- (c) **in collaboration with the issuing bodies, expedite the membership renewal for the participating merchants and shops of the NFP Scheme as far as possible;**
- (d) **promulgate procedure guidelines on returning expired NF stickers or tent cards to issuing bodies for disposal;**
- (e) **take measures to prevent misuse of the NF logo on promotional materials by shops which are not members of the NFP Scheme;**
- (f) **in collaboration with C&ED, take measures to ensure that prompt follow-up actions are taken against participating merchants of the NFP Scheme upon raid operations for IP rights infringement; and**

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- (g) **take measures to improve the accuracy of the information provided by the NFP App.**

Response from the Government

3.34 The Director of Intellectual Property generally agrees with the audit recommendations. He has said that:

- (a) as coordinator of the NFP Scheme, IPD has all along been making efforts in enhancing the attractiveness of the Scheme to the retail sector and broadening its coverage having regard to changes in the shopping mode and habits of consumers;
- (b) given that the integrity of the Scheme is the key to its success, IPD has agreed with issuing bodies on new measures to tighten up the requirements for the return of expired NF stickers and tent cards by members and will continue to take robust enforcement action against misuse of the NF logo. The new requirements will be included in the Terms and Conditions of the Scheme and will take effect as soon as practicable;
- (c) IPD will continue to collaborate with C&ED to enhance the notification procedures for raid operations concerning IP infringements conducted against members of the Scheme; and
- (d) IPD will continue to work with the contractor to improve the mobile application including exploring feasible technical solutions to enhance its performance.

3.35 The Commissioner of Customs and Excise agrees with the audit recommendation in paragraph 3.33(f). He has said that C&ED and IPD conducted a review on the handling procedures in December 2019 to ensure information related to C&ED's raid operations against NFP Scheme members would be promptly provided to IPD.

Management of the IP Manager Scheme

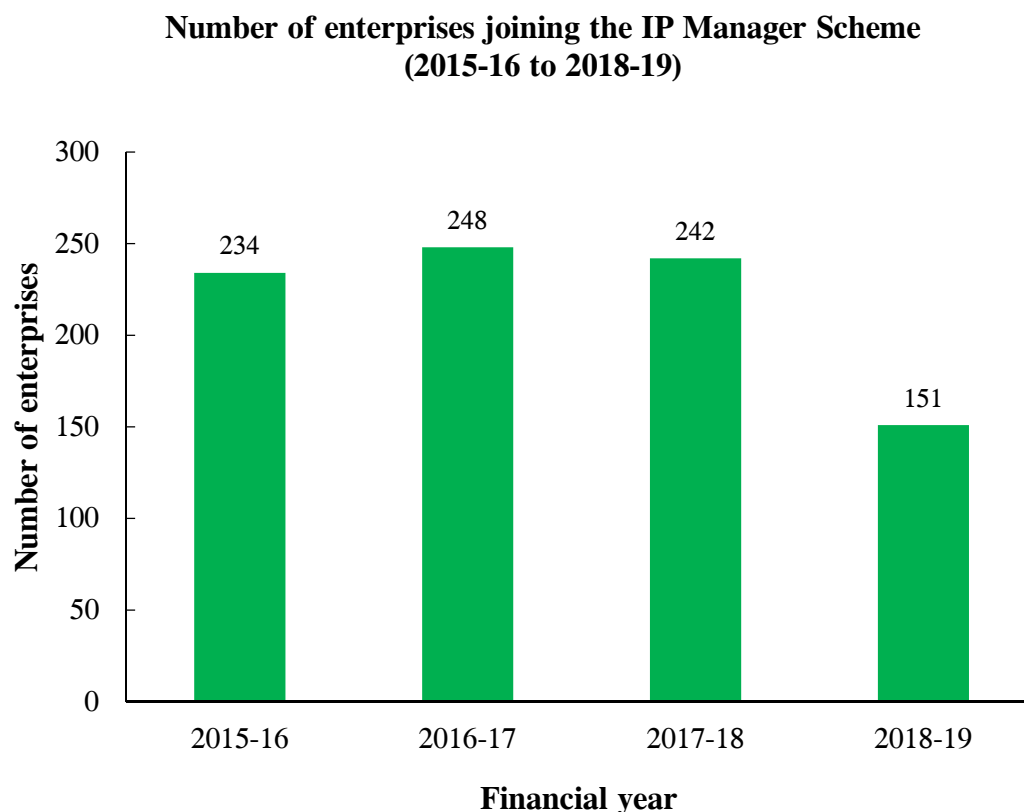
3.36 The IP Manager Scheme was launched in 2015 with an aim of assisting Hong Kong enterprises, especially small and medium enterprises, to build up their IP manpower capacity and to increase competitiveness so as to grasp the opportunities brought by IP trading. Participating enterprises are required to appoint a staff member in a managerial position as their in-house “IP Manager”, who will be responsible for overseeing the compliance, management, exploitation and commercialisation of IP assets. IP Managers will have:

- (a) the priority in registration for a two-day IP Manager Training Programme organised by IPD at a discounted price; and
- (b) free registration for a Practical Workshop for IP Managers organised by IPD.

Need to boost the attractiveness of the IP Manager Scheme

3.37 In the period from 2015-16 to 2018-19, a total of 875 enterprises joined the IP Manager Scheme. In the first few years since the launch of the IP Manager Scheme, over 230 enterprises joined the Scheme each year. However, the number of new participating enterprises decreased by 38% from 242 in 2017-18 to 151 in 2018-19 (see Figure 8).

Figure 8



Source: Audit analysis of IPD records

3.38 Audit considers that IPD needs to step up efforts to boost the attractiveness of the IP Manager Scheme and to promote the Scheme.

Decreased attendance rate of training programme

3.39 Under the IP Manager Scheme, IPD periodically organised a two-day training programme delivered by local IP experts. The fees were \$200 (reduced to \$100 for the IP Manager of an enterprise participating in the IP Manager Scheme). Participants would receive a certificate of attendance upon completion of programme. In the period from 2015-16 to 2018-19, 8 training programmes were held, with a total of 1,666 enrolled participants. The total cost of the 8 training programmes was about \$3 million and the average cost per participant was \$1,840.

Promotion of intellectual property protection

3.40 Audit reviewed the attendance records of the training programme for the period from 2015-16 to 2018-19 and noted that:

- (a) some enrolled participants did not attend the training programme. In the period from 2015-16 to 2018-19, of the 1,666 enrolled participants, only 1,562 (93.8%) attended the training programmes; and
- (b) the attendance rate had decreased from 97.7% in 2015-16 to 86.3% in 2018-19 (see Table 19).

Table 19

**Attendance rate of the training programme
(2015-16 to 2018-19)**

Year	Number of participants enrolled	Number of participants attended	Attendance rate
	(a)	(b)	(c) = (b) ÷ (a) x 100%
2015-16	389	380	97.7%
2016-17	394	370	93.9%
2017-18	445	434	97.5%
2018-19	438	378	86.3%
Overall	1,666	1,562	93.8%

Source: Audit analysis of IPD records

3.41 In response to Audit's enquiry, IPD informed Audit in February 2020 that it was in the very nature of industry conferences and seminars that actual attendance might not be as good as the prior registration. Similar to the arrangements of other conferences or seminars, registration for the training programme was conducted well in advance of the event, with acceptance sent to the registered participants followed by issuance of reminder nearer the time.

Promotion of intellectual property protection

3.42 In view of the considerable decrease in the attendance rate of the training programme in 2018-19, Audit considers that IPD needs to explore further measures to boost the attendance rate.

Audit recommendations

3.43 **Audit has *recommended* that the Director of Intellectual Property should:**

- (a) **step up efforts to boost the attractiveness of the IP Manager Scheme and to promote the Scheme; and**
- (b) **explore further measures to boost the attendance rate of the training programme under the IP Manager Scheme.**

Response from the Government

3.44 The Director of Intellectual Property generally agrees with the audit recommendations. He has said that:

- (a) with the fast reaching out of the IP Manager Scheme to more and more enterprises in the early years of its launch, a later drop in the number of new intake was not unexpected. The number of participants enrolled in its training programmes, however, has remained steady over time, with a high average attendance rate of 93.8% notwithstanding some minor yearly variations; and
- (b) IPD is committed to championing the IP Manager Scheme in both the breadth and depth of its reach and bringing out its value to enterprises engaged in IP activities. IPD will continue to enhance the contents of the training programmes and make the most of their capacity in future.

PART 4: ADMINISTRATIVE ISSUES

4.1 This PART examines the administrative issues of IPD, focusing on the following areas:

- (a) administration of outsourcing contracts (paras. 4.2 to 4.17); and
- (b) human resources management (paras. 4.18 to 4.26).

Administration of outsourcing contracts

4.2 Since December 2001, IPD has outsourced some of its non-core services with a view to maximising efficiency in service delivery with better value for money:

- (a) ***New Application Development Service (NADS)***. The service included the development and administration of IT systems for trade mark registration and design registration, and the upgrading of the existing Patents Computerisation System;
- (b) ***Ongoing Support and Maintenance Service (OSMS)***. The service included the management, supporting and processing of the IT systems; and
- (c) ***Office Operation Service (OOS)***. The service included front office service for a public counter (e.g. receipt of applications and supply of forms and printed guides) and back office service for providing clerical support mainly to the Trade Marks, Patents and Designs Registries.

IPD's procurement of these services is governed by relevant Stores and Procurement Regulations (SPRs — Note 14) and Financial Circulars. In the period from 2001 to 2019, IPD awarded 6 outsourcing contracts through open tenders, with a total contract value amounting to \$335.4 million (see Table 20).

Note 14: *SPRs are made by the Financial Secretary/Secretary for Financial Services and the Treasury under section 11(1) of the Public Finance Ordinance (Cap. 2).*

Table 20

**Outsourcing contracts awarded by IPD
(2001 to 2019)**

Contract	Contractor	Contract period	Services outsourced	Contract value (\$ million)
1	Contractor A	1 Dec 2001 — 30 Nov 2006	<ul style="list-style-type: none"> • NADS • OSMS • OOS 	86.7
2	Contractor A	1 Dec 2006 — 30 Nov 2011	<ul style="list-style-type: none"> • OSMS • OOS 	79.2
3	Contractor A	1 Dec 2011 — 30 Nov 2014	<ul style="list-style-type: none"> • OSMS • OOS 	62.0
4	Contractor A	1 Dec 2014 — 30 Nov 2019	<ul style="list-style-type: none"> • OSMS 	28.2
5	Contractor B	1 Dec 2014 — 30 Nov 2019	<ul style="list-style-type: none"> • OOS 	39.3
6	Contractor B	1 Dec 2019 — 30 Nov 2024	<ul style="list-style-type: none"> • OOS (Note) 	40.0
Total				335.4

Source: Audit analysis of IPD records

Note: IPD only outsourced the back office services in Contract 6.

Need to enhance competition in procurement of outsourced services

4.3 According to SPRs, competition is a reliable safeguard against bidders overcharging and holding the Government to ransom. By encouraging participation through open and fair competition, the Government will be better able to obtain responsive and competitive bids that ensure value for money. Audit reviewed the tender exercises conducted by IPD in the period from 2001 to 2019 and noted that 9 bids were received for Contract 1 while only 1 to 4 bids were received for Contracts 2 to 6 (see Table 21). According to IPD, the service scope of Contract 1 was much

broader than those of the other five contracts. A crucial component of Contract 1 was the development of new IT systems and the updating of an existing system. Contracts 2 to 6 concerned the routine operations of IPD, covering the management and support of the existing IT systems and provision of office operation service to the Registries.

Table 21

**Number of bids received for IPD's outsourcing contracts
(2001 to 2019)**

Contract	Year	Number of bids
1	2001	9
2	2006	2
3	2011	2
4	2014	4
5	2014	2
6	2019	1

Source: Audit analysis of IPD records

Remarks: All bids received were conforming bids except some bids received for Contracts 1 and 3. Only 2 of the 9 bids for Contract 1 and 1 of the 2 bids received for Contract 3 met the tender requirements and were evaluated by IPD.

4.4 **Over-reliance on tenderers' experience.** Audit noted that in the tender exercises for Contracts 1, 2 and 3 conducted in the period from 2001 to 2011, IPD adopted a two-envelope approach to evaluate the tender proposals received, and a marking scheme was used for the technical assessment. In March 2014, in preparing the tender exercises for Contracts 4 and 5, IPD sought the views of FSTB on the marking schemes. In response, FSTB suggested that as an alternative to using the two-envelope approach for tender evaluation, IPD could set mandatory requirements of the tenders and award the contracts to the lowest bid which met the mandatory requirements. FSTB's suggestion was based on the following considerations:

Administrative issues

- (a) the nature of the services under acquisition was not particularly complicated; and
- (b) the incumbent contractor (Contractor A) had been engaged for more than ten years. The existing design of the marking schemes was inherently in favour of this contractor, who had a clear edge over other potential tenderers in preparing the risk management and service delivery plans according to the existing marking scheme.

4.5 IPD adopted FSTB's suggestion. Since 2014, IPD has not used marking schemes to evaluate tender proposals. Instead, IPD set essential requirements for the tenders and contracts were awarded to the lowest bid which met the essential requirements. The tenderer's experience was the sole criteria for IPD's tender evaluation other than the tender price (see Table 22).

Table 22

IPD's tender evaluation approach

	Prior to March 2014	Since March 2014	
	Contracts 1, 2 and 3	Contract 4	Contracts 5 and 6
	A marking scheme comprising: <ul style="list-style-type: none"> — proven track records — acceptance plan — proposed approach to deliver the services — project team structure and experience — proposed approach for risk analysis, management and mitigation (for Contracts 2 and 3 only) — business continuity plan (for Contracts 2 and 3 only) 	Essential tender requirements: <ul style="list-style-type: none"> — 4 years of relevant experience in the past 10 years — completed at least 4 relevant projects in the past 10 years 	Essential tender requirement: <ul style="list-style-type: none"> — 3 years of relevant experience in the past 10 years

Source: Audit analysis of IPD records

4.6 In October 2018, the Chief Executive of the Hong Kong Special Administrative Region announced in her 2018 Policy Address that the Government would introduce a pro-innovation government procurement policy in April 2019. Under the new policy, the technical weighting in tender assessment is raised and tenders with innovative suggestions will stand a better chance of winning government

contracts. The pro-innovation government procurement policy aims to help improve the delivery of public services, thereby facilitating innovation and technology start-ups and small and medium-sized enterprises to take part in government procurement, contributing to the development of local innovation and technology.

4.7 Audit noted that the tender exercise of Contract 6 was conducted in March 2019 after the announcement of the Government's policy of pro-innovation procurement in October 2018. In the exercise, IPD used the evaluation approach adopted for Contract 5 and included tenderer's experience as the only essential requirement. In Audit's view, this arrangement may not be conducive to facilitating innovation and technology start-ups and small and medium-sized enterprises to take part in the tender exercise. Start-ups with less relevant experience than the tender requirement were not able to submit bids even though they had innovative suggestions.

4.8 According to Financial Circular No. 2/2019 issued in March 2019, with effective from 1 April 2019, to encourage competition in procurement and minimise entry barriers, as a general rule, tenderer's experience should not be set as essential requirement, irrespective of the value of procurement.

4.9 In response to Audit's enquiry, IPD informed Audit in February 2020 that:

- (a) in October 2018, when IPD was notified of the pro-innovation government procurement policy that would take effect on 1 April 2019, preparation of the tender for Contract 6 was well underway; and
- (b) to ensure that there would be no delay to the tender exercise, it was decided that IPD should continue to follow the approach of essential requirements for Contract 6, which was the norm prior to the effective date of the new procurement policy.

In Audit's view, in conducting tender exercises for the procurement of outsourced services, IPD needs to set evaluation criteria that dovetail with the new pro-innovation government procurement policy and the Financial Circular No. 2/2019.

4.10 ***Market research not conducted.*** According to SPRs, in drawing up tender specifications, departments are encouraged to conduct a market research or

non-binding expression of interest (EOI) exercise to better understand the goods or services likely to be available in the market, in particular for contracts with poor tender response in the past tender exercises. Audit noted that although only two tender proposals were received in the 2006 tender exercise for Contract 2, IPD did not conduct any market research or EOI exercise for the subsequent tender exercises because IPD assessed that the relevant services would be generally available in the market. However, there was no documentary evidence supporting such a view. In the event, only a few (1 to 4) tenderers had submitted bids in the subsequent tender exercises (see Table 21 in para. 4.3). Audit considers that IPD needs to conduct market research or EOI exercises for tender exercises with a view to ascertaining the market supply of the services required.

Need to strengthen the monitoring of contractor's performance

4.11 IPD's control mechanism for monitoring the contractor's performance was set out in the contracts with the contractors, which include the following:

- (a) **Management Committee.** The Management Committee, chaired by the Director of Intellectual Property, comprised representatives of IPD and the contractor. According to the contract, the Management Committee should meet at least once every three months or at such interval as determined by IPD in order to facilitate the performance of the services;
- (b) **Business review meeting.** The business review meeting comprised representatives of IPD and the contractor. According to the contract, the business review meetings should be held at least once every three months or at such interval as determined by IPD to exchange data on past performance of the contractor; and
- (c) **Service credit mechanism.** According to the contract, if the contractor failed to meet the service level requirements, a deduction would be made from the monthly charges payable to the contractor. The contractor submitted monthly performance reports to IPD, showing his performance results against the service levels. Based on his performance results, the contractor compiled and submitted monthly Service Credit Reports to IPD, showing the calculation of the deductions, if any, from the monthly charges.

Administrative issues

4.12 For the tender exercise of Contract 5, IPD received a bid from Contractor A (the incumbent contractor) and a bid from Contractor B (a new contractor). IPD awarded Contract 5 to Contractor B. Audit reviewed the performance of Contractor B under Contract 5 and noted that there was room for improvement in its performance:

- (a) **Poor service provided by the contractor.** According to the contract, Contractor B was responsible for managing the Shroff Office of IPD. IPD found that the service provided by Contractor B was poor. Consequently, IPD modified the service scope to exclude the management of the Shroff Office by Contractor B, and took up the responsibility since May 2015;
- (b) **Required service levels not met.** Contractor B failed to fully meet the contractual service levels in 31 out of 57 months (Note 15) and manpower requirements in 24 out of 57 months during the contract period. Monthly charges paid to the contractor had been deducted according to the service credit mechanism (see para. 4.11(c)); and
- (c) **High staff turnover rate.** Audit examination of IPD's records found that the turnover rates of the staff provided by Contractor B were high during the contract period, ranging from 60% to 130% (averaging 99%) (see Table 23).

Note 15: *According to the contract, the deduction of service credit commenced after the acceptance end date of 16 March 2015. Therefore, the total number of months subject to the service credit mechanism was 57 during the contract period.*

Table 23

**Turnover rate of staff provided by Contractor B for Contract 5
(May 2015 to November 2019)**

Period	Turnover rate
1 May 2015 – 30 Nov 2015 (Note 1)	60%
1 Dec 2015 – 30 Nov 2016	79%
1 Dec 2016 – 30 Nov 2017	109%
1 Dec 2017 – 30 Nov 2018	119%
1 Dec 2018 – 30 Nov 2019	130% (Note 2)
Average	99%

Source: Audit analysis of IPD records

Note 1: The above staff turnover rate was calculated based on departmental payment records after service modification effective on 1 May 2015.

Note 2: According to IPD, the high turnover rate in the latter part of 2019 was due to the anticipated expiry of Contract 5 as explained by the contractor.

4.13 Audit noted that there was room for improvement in monitoring the performance of Contractor B under Contract 5:

- (a) ***Management Committee and business review meetings not held in a timely manner.*** According to the contract, Management Committee and business review meetings should be held at least once every three months or at such interval as determined by IPD in order to facilitate the performance of the service (see para. 4.11). In other words, at least 20 Management Committee meetings and 20 business review meetings should have been held. Audit noted that 20 Management Committee meetings were held but only 17 business review meetings were held and there was no documentary evidence showing that IPD had determined to hold meetings less frequently than once every three months. For better management of the contractor, the Management Committee meetings and business review meetings should be held in a timely manner. However, it was noted that some meetings were held at intervals longer than three months:

Administrative issues

- (i) 11 (55%) of the 20 Management Committee meetings were held longer than three months (ranging from 3.1 to 5.4 months, averaging 3.7 months) after the previous meetings; and
 - (ii) 11 (65%) of the 17 business review meetings were held at intervals longer than three months after the previous meetings (ranging from 3.1 to 5.2 months, averaging 3.6 months); and
 - (b) ***Inadequate guidelines on verification of performance report.*** In the 2006 Audit review, Audit found that IPD had not conducted checking of the performance results submitted by the contractor. Audit recommended IPD to consider drawing up a guidance manual on checking of contractor's performance report to assist its staff in managing the outsourcing contract. In the current review, Audit reviewed the guidelines drawn up by IPD and noted that the guidelines only showed how the deduction of monthly charges was computed, but detailed procedures on other checks on the contractor's performance reports were not included.
- 4.14 In response to Audit's enquiry, IPD informed Audit in March 2020 that:
- (a) two business review meetings were subsumed under the Management Committee meetings in order that the Management Committee could closely monitor all aspects of the performance of the contractor during the initial six months of the contract;
 - (b) the contract did not specifically prescribe the time gap between any two successive Management Committee or business review meetings. The provisions of the contract required that such meetings should be held at least once in each quarter during the entire duration of the contract. Measured against this benchmark as per the contract provisions, there was only one quarter in which no Management Committee meeting or business review meeting was held; and
 - (c) in practice, for better monitoring of the contractor's performance, IPD had strived to space out the meetings by holding the Management Committee meetings and business review meetings at regular intervals of about three months. However, as each Management Committee meeting or business review meeting involved a number of staff members at various levels of

both IPD and the contractor, some flexibility in scheduling the meetings would be required. In fact, while some of the meetings were scheduled slightly longer than three months, the time gap between some other meetings was shorter than three months.

4.15 Audit considers that IPD needs to take measures to strengthen the monitoring of the contractor's performance:

- (a) ensure that the requirements relating to the frequency of Management Committee meetings and business review meetings are stated clearly in the contract;
- (b) ensure that all Management Committee meetings and business review meetings are conducted in a timely manner to facilitate monitoring the contractor's performance and taking timely remedial actions; and
- (c) enhance the guidelines on monitoring the contractor's performance to facilitate checking of the performance reports prepared by the contractor.

Audit recommendations

4.16 **Audit has *recommended* that the Director of Intellectual Property should:**

- (a) **in conducting tender exercises for the procurement of outsourced services, set evaluation criteria that dovetail with the new pro-innovation government procurement policy and the Financial Circular No. 2/2019;**
- (b) **conduct market research or non-binding EOI exercises for tender exercises with a view to ascertaining the market supply of the services required; and**
- (c) **take measures to strengthen the monitoring of the contractor's performance:**

- (i) state clearly in the contract the requirements relating to the frequency of Management Committee meetings and business review meetings;
- (ii) ensure that all Management Committee meetings and business review meetings are conducted in a timely manner to facilitate monitoring the contractor's performance and taking timely remedial actions; and
- (iii) enhance the guidelines on monitoring the contractor's performance to facilitate checking of the performance reports prepared by the contractor.

Response from the Government

4.17 The Director of Intellectual Property generally agrees with the audit recommendations. He has said that:

- (a) IPD has all along taken a vigorous approach in monitoring the performance of its contractors and the service credit mechanism (see para. 4.11(c)) has remained a useful tool in keeping the contractors on their toes; and
- (b) IPD will critically review how best to meet its future operational needs through outsourcing or otherwise in the light of experience gained over the years.

Human resources management

Prolonged employment of some NCSC staff

4.18 In January 1999, the Government introduced the NCSC Staff Scheme as a more flexible arrangement for employment of temporary and short-term contract staff to meet short-term, part-time, changing or fluctuating service needs from time to time. According to the Civil Service Bureau (CSB), the Scheme:

- (a) allows government bureaux and departments to employ staff on short-term contracts up to three years normally on flexible packages to be determined by the Heads of Department themselves; and
- (b) aims at providing bureaux and departments with a flexible means of employment to respond more promptly to their changing operational and service needs:
 - (i) which are time-limited, seasonal, or subject to market fluctuations;
 - (ii) which require staff to work less than conditioned hours;
 - (iii) which require tapping the latest expertise in a particular area; or
 - (iv) where the mode of service delivery is under review or likely to be changed.

4.19 As at 1 February 2020, IPD had 13 full-time NCSC staff. According to IPD, 10 NCSC staff were engaged on a time-limited basis in order to meet IPD's operational needs arising from ad hoc projects or new policy initiatives (Note 16). Approval for employment of these staff was obtained from CSB pursuant to the established procedures under the NCSC Staff Scheme.

Note 16: *These projects include providing support to the Registries during development and implementation of NIS; supporting the collaboration on the protection, management and commercialisation of IP rights with Guangdong and Macao pursuant to the Greater Bay Area Initiative; and providing support in the preparatory work for implementation of the OGP system to handle new types of patent cases involving substantive examination.*

Administrative issues

4.20 For the remaining three NCSC staff, they were engaged in the Marketing Division to provide support for IPD's local, regional and international promotion and educational activities on IP protection and management, and the development of Hong Kong as an IP trading hub in the Asia Pacific region. In 2016, IPD sought CSB's approval for granting special quota to continue their engagement (Note 17) for the additional work of promoting Hong Kong as an IP trading hub. However, CSB did not grant the approval and advised IPD that:

- (a) while the promotion of Hong Kong as an IP trading hub was a long-term project, given the recurrent nature of the initiative, engagement of NCSC staff to deliver the said initiative did not fit the ambit of the NCSC Staff Scheme;
- (b) if IPD considered that there was an operational need to retain any of its NCSC posts in the long run, it should submit bids to convert them into civil service posts; and
- (c) the incumbents of two NCSC posts concerned had been engaged for over a decade. IPD should review the long standing NCSC positions and take all possible measures to work down the number of long-serving NCSC staff. The employment relationship with an NCSC staff should end upon expiry of the contract. The continued employment of NCSC staff was not encouraged as that might create undue expectation for continued employment, even if the NCSC staff had changed positions within the department.

Under the above circumstances, IPD renewed the contracts of the three NCSC posts concerned using the discretionary quota of IPD.

Note 17: CSB has set a ceiling on the number of NCSC staff to be employed by each bureau/department (i.e. the general quota). Head of Department's approval is required if the number of NCSC staff to be employed exceeds the ceiling by not more than 5%, or five in number, whichever is greater (i.e. the discretionary quota). CSB's approval is required if the number of NCSC staff to be employed exceeds the ceiling by more than 5%, or five in number, whichever is greater (i.e. the special quota).

4.21 Audit analysed the length of services of NCSC staff and noted that some of them had been employed for 3 years or more. Of the 13 full-time NCSC staff as at 1 February 2020:

- (a) 5 (38%) had been continuously employed for more than 3 years; and
- (b) of these 5 staff, 3 (60%) had been continuously employed for over 10 years, and the longest period of employment was 17 years. All of these staff were from the Marketing Division.

4.22 In response to Audit's enquiry, IPD informed Audit in March 2020 that it had critically considered CSB's views as well as its own operational needs before renewing the contracts of the NCSC posts in the Marketing Division. Since 2013, IPD had replaced seven NCSC positions in the Marketing Division by civil service posts. Factors taken into account included the following:

- (a) IPD's objective was to develop and build up a pool of civil service staff, in particular Intellectual Property Examiners, with suitable temperament to replace the NCSC positions;
- (b) given its very different job nature, the Marketing Division required staff to command a skillset that was not readily available in full within IPD; and
- (c) as it would take time to train up a whole team of civil service staff to take up the entire portfolio of the Marketing Division with its wide-ranging responsibilities, the NCSC positions would be phased out gradually to ensure no gaps in meeting the operational needs.

4.23 As the prolonged employment of some NCSC staff by IPD is not strictly in line with the NCSC employment policy (see para. 4.18), Audit considers that IPD needs to phase out the NCSC positions with prolonged employment and replace them by civil service posts as soon as possible.

Audit recommendation

4.24 Audit has *recommended* that the Director of Intellectual Property should phase out the NCSC positions with prolonged employment and replace them by civil service posts as soon as possible.

Response from the Government

4.25 The Director of Intellectual Property generally agrees with the audit recommendation. He has said that filling staffing positions with long-term needs by civil service staff will facilitate the growth and retention of knowledge and expertise within IPD and provide continuity in its work in the long term. IPD will continue phasing out the concerned NCSC positions, subject to operational needs and the successful bidding of civil service posts in future.

4.26 The Secretary for the Civil Service has said that:

- (a) according to the quarterly returns submitted by IPD to CSB on the employment of NCSC staff, the three NSCS staff in the Marketing Division, who had been employed for over 10 years, were engaged to tap the latest expertise in the market. Hence, it is in line with the spirit of the NCSC policy to engage the staff concerned as specified in paragraph 4.18(b)(iii);
- (b) CSB recognises that it is not unusual for NCSC positions created for the purpose of tapping latest market expertise be retained for a relatively longer period of time;
- (c) for the case of the NCSC positions concerned in the Marketing Division of IPD, when IPD submitted its application for extension of special quotas for the positons of Head and Senior Manager in 2016, IPD advised that it was its ultimate aim to replace the NCSC positions with civil servants. However, it would take at least five to eight years for the Intellectual Property Examiners to be ready and competent enough to take up more senior positions in the Marketing Division as IPD would need to adjust its recruitment and training strategies for the Intellectual Property Examiners; and

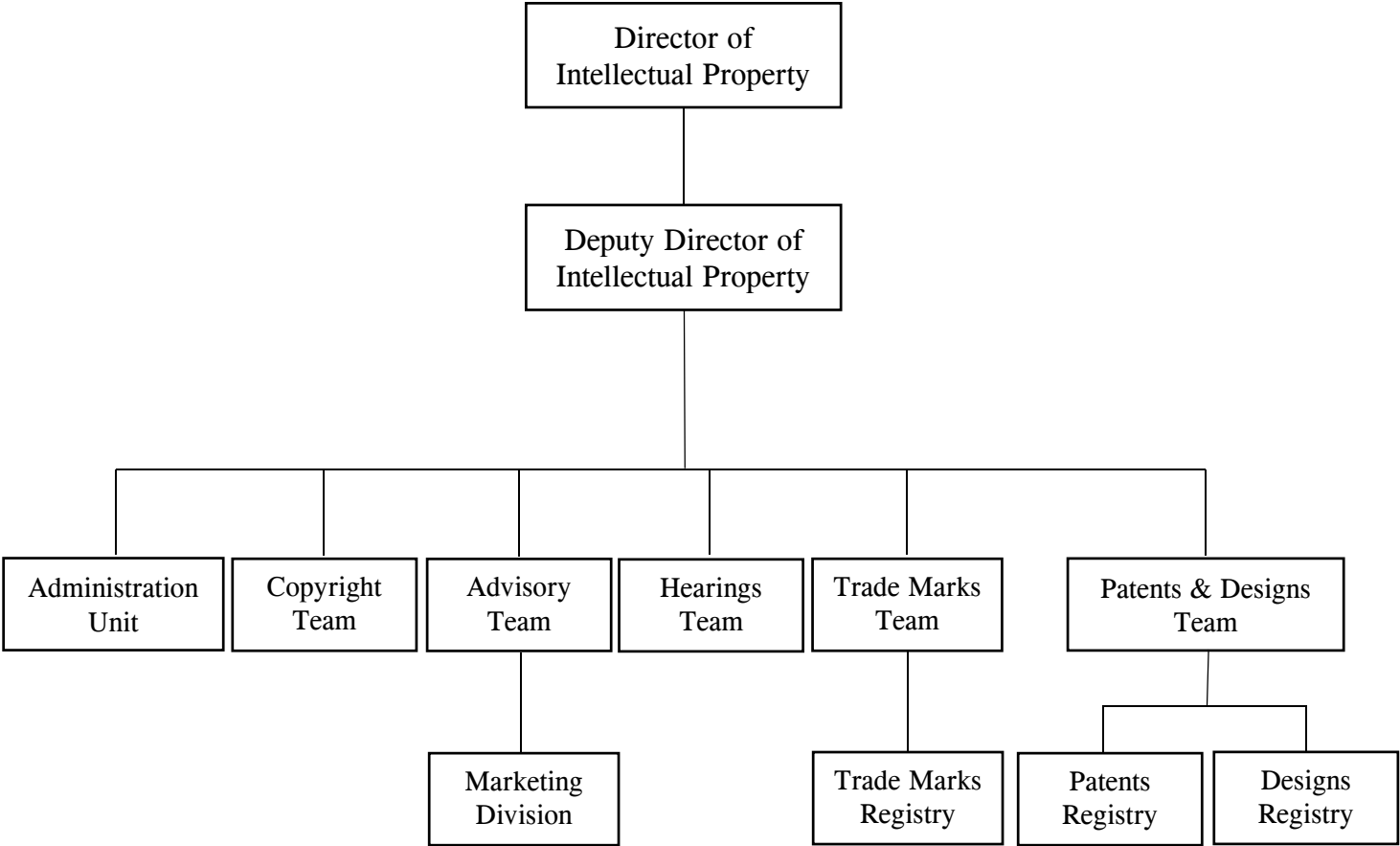
- (d) given the overall guiding principle that civil servants should be used for established long-term manpower needs wherever possible, CSB is of the view that IPD should speed up securing the necessary resources for the creation of the concerned civil service posts and the building up of a pool of suitable Intellectual Property Examiners to shoulder such level of responsibilities in the Marketing Division.

**International intellectual property conventions
applicable to Hong Kong
(31 December 2019)**

1. World Trade Organization – Agreement on Trade-Related Aspects of Intellectual Property Rights
2. The Paris Convention for the Protection of Industrial Property
3. The Berne Convention for the Protection of Literary and Artistic Works
4. The Universal Copyright Convention
5. The Nice Agreement concerning the International Classification of Goods and Services for the purposes of the Registration of Marks
6. The Geneva Convention for the Protection of Producers of Phonograms Against Unauthorised Duplication of Their Phonograms
7. The Patent Cooperation Treaty
8. The Convention establishing the World Intellectual Property Organization (WIPO)
9. The WIPO Copyright Treaty
10. The WIPO Performances and Phonograms Treaty

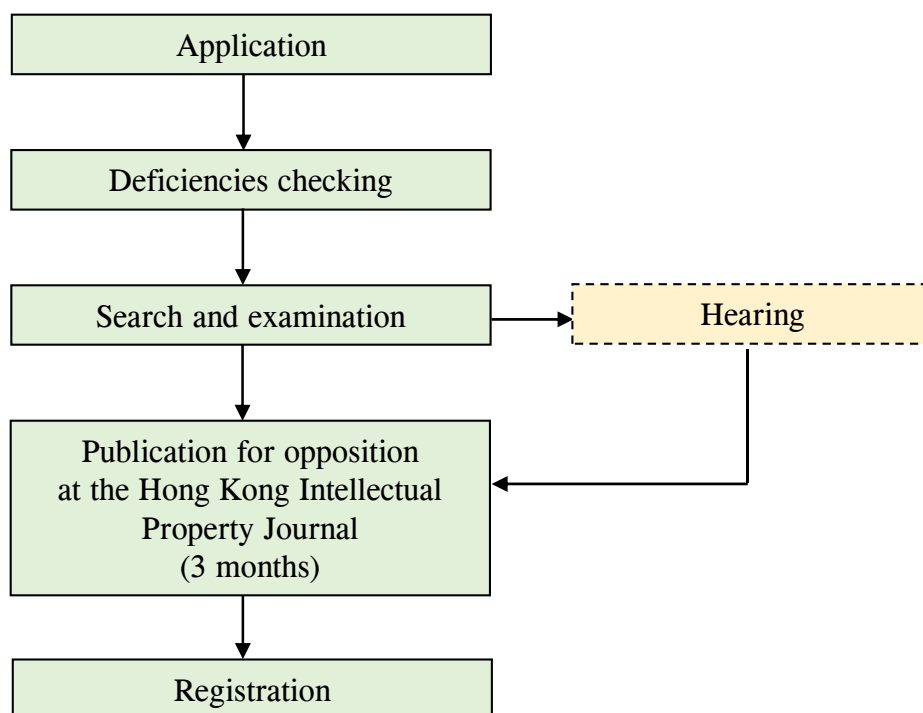
Source: IPD records

Intellectual Property Department
Organisation chart (extract)
(31 December 2019)



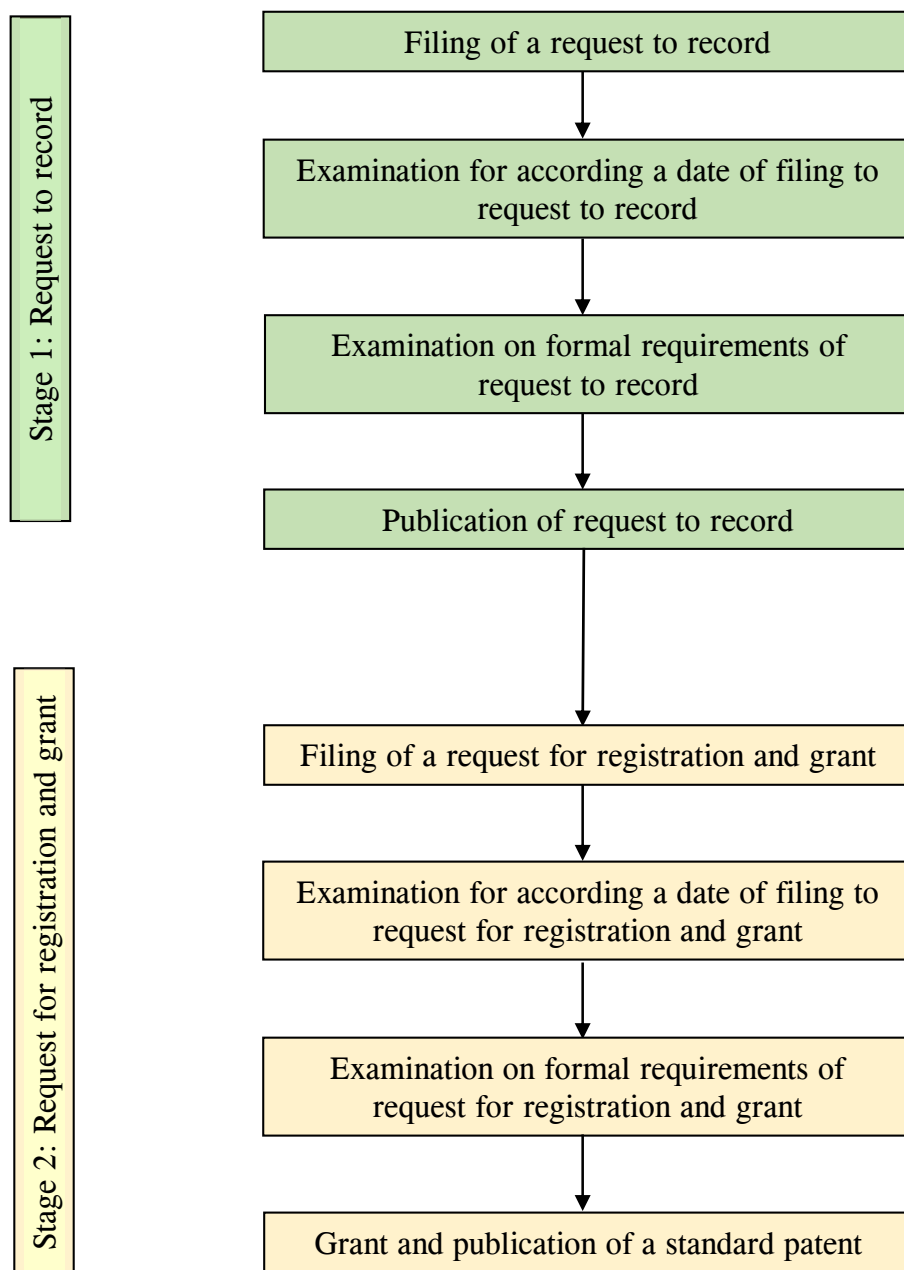
Source: *Audit analysis of IPD records*

**The application process for trade marks
(31 December 2019)**



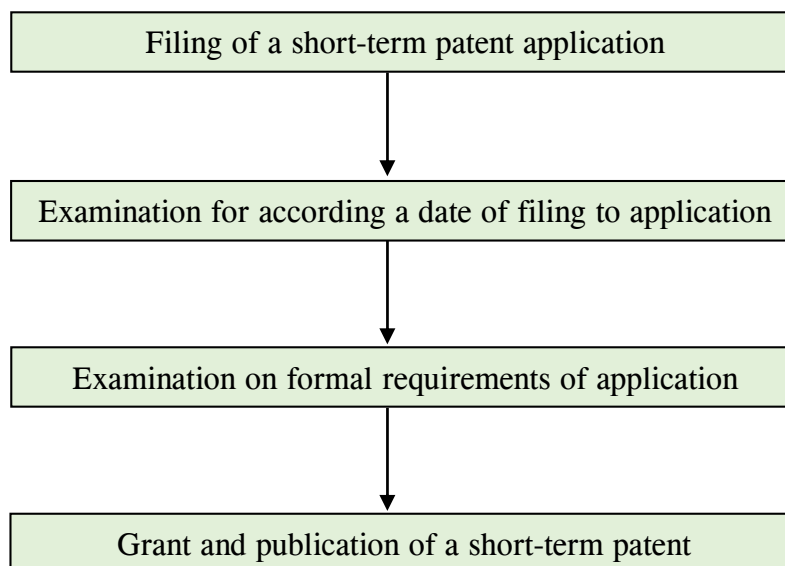
Source: IPD records

**The application process for standard patents
(31 December 2019)**



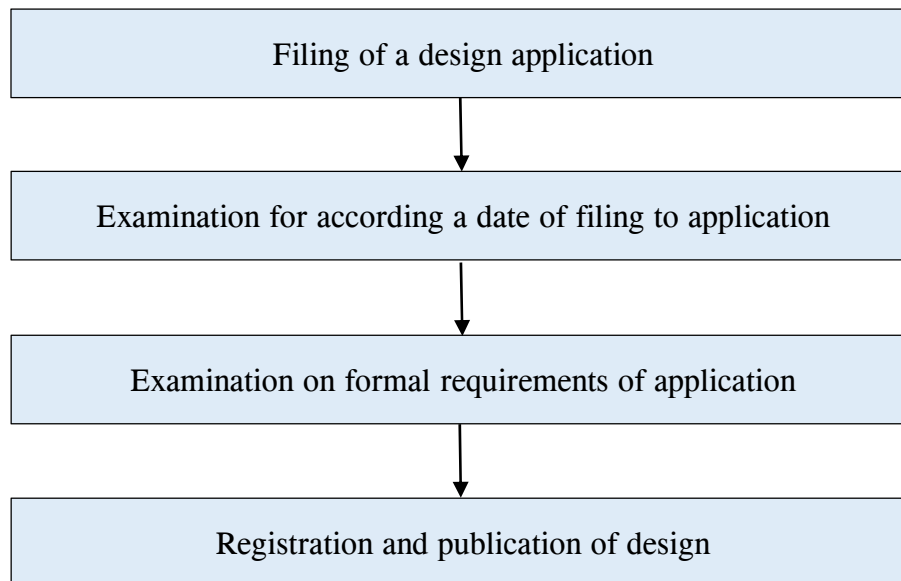
Source: IPD records

**The application process for short-term patents
(31 December 2019)**



Source: IPD records

**The application process for designs
(31 December 2019)**



Source: Audit analysis of IPD records

Acronyms and abbreviations

Audit	Audit Commission
CEDB	Commerce and Economic Development Bureau
COR	Controlling Officer's Report
CSB	Civil Service Bureau
C&ED	Customs and Excise Department
EOI	Expression of interest
FSTB	Financial Services and the Treasury Bureau
IP	Intellectual Property
IPD	Intellectual Property Department
IT	Information technology
NADS	New application development service
NCSC	Non-civil service contract
NF	No Fakes
NFP App	No Fakes Pledge Shop Search mobile application
NFP Scheme	No Fakes Pledge Scheme
NIS	New Integrated Information Technology System
OGP	Original Grant Patent
OOS	Office operation service
OSMS	Ongoing support and maintenance service
PAIP survey	Survey on Public Awareness of Intellectual Property Right Protection
Registries	Trade Marks Registry, Patents Registry and Designs Registry
SPRs	Stores and Procurement Regulations
WIPO	World Intellectual Property Organization

INTELLECTUAL PROPERTY DEPARTMENT: REGISTRATION AND PROTECTION OF INTELLECTUAL PROPERTY

Executive Summary

1. Intellectual property (IP) is the name commonly given to a group of separate intangible property rights. The most common types of IP include trade mark, patent, design and copyright. In Hong Kong, trade marks, patents, designs and copyrights are generally protected under the Trade Marks Ordinance (Cap. 559), the Trade Descriptions Ordinance (Cap. 362), the Patents Ordinance (Cap. 514), the Registered Designs Ordinance (Cap. 522) and the Copyright Ordinance (Cap. 528). In addition, under various international conventions, Hong Kong is required to recognise rights of persons from all member countries. Copyright is an automatic right and is not necessary to be registered. Unlike copyrights, the IP rights of trade marks, patents and designs are not automatic rights. As at 31 December 2019, the number of trade marks, patents and designs registered in Hong Kong totalled 536,592. The Commerce and Economic Development Bureau assumes policy responsibility for IP rights within Hong Kong. The Intellectual Property Department (IPD) is responsible for the registration and protection of IP. In 2018-19, IPD's income was \$220.7 million and its total expenditure was \$177.5 million. The Audit Commission (Audit) has recently conducted a review of IPD's work on the registration and protection of IP.

Registration of trade marks, patents and designs

2. *Backlog in processing trade mark applications.* Audit analysed the backlog in trade mark applications and noted that: (a) the number of outstanding applications increased by 29% from 5,270 in January 2018 to 6,775 in December 2019; (b) there was a significant increase of 67% in the number of outstanding applications from 6,494 in January 2019 to a peak of 10,860 in May 2019; and (c) the percentage of trade marks that were registered within six months from the date of receipt of application decreased from 73% in April 2018 to 7% in June 2019 and then picked up to 45% in December 2019 (paras. 2.4 and 2.5).

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3. ***Need to shorten the time taken to issue first letters to trade mark applicants.*** Audit analysed the progress of processing outstanding trade mark applications and noted that as at 31 December 2019, of the 6,775 applications: (a) 4,907 (72%) had not yet completed the deficiencies checking stage, including 765 (16% of 4,907) which had been received for over 90 days. The earliest application was received 1,156 days ago; and (b) 1,868 (28%) were undergoing the search and examination stage. Audit also noted that in the period from January 2018 to October 2019, IPD issued 67,049 first letters to trade mark applicants during the deficiencies checking stage requesting them to provide information to remedy the deficiencies or notifying them that their applications would proceed to the search and examination stage. For 17,177 (26%) of the 67,049 first letters, IPD took more than 60 days after receipt of the applications to issue the first letters, and the longest time taken was 433 days (paras. 2.8, 2.10 and 2.11).

4. ***Increasing number of outstanding applications for patent registration.*** Audit analysed the number of outstanding applications for standard patents and short-term patents for the period from January 2018 to December 2019 and noted that: (a) the number of outstanding standard patent applications increased by 70% from 6,367 to 10,798; (b) the number of outstanding short-term patent applications increased by 56% from 260 to 406; and (c) there was an increasing trend in the number of outstanding applications for standard patents since late 2018 and for short-term patents since early 2019 (paras. 2.15 and 2.16).

5. ***Long waiting time for hearings on trade mark registration matters.*** For inter partes substantive hearings on trade mark registration heard in December 2019, the average waiting time for hearings was 11 months. IPD considered that the average waiting time was quite long as compared to the performance of overseas IP agencies and the Judiciary of Hong Kong. Proceedings concerning trade marks should be determined expeditiously as any uncertainty concerning the use or protection of trade marks would have a material impact on the trade mark owners' business plans and strategies (paras. 2.22, 2.23 and 2.25).

6. ***Room for improving the proportion of electronic filing for trade mark registration.*** Audit examined the statistics of electronic filing for trade mark, patent and design applications in the period from 2015 to 2019 and noted that: (a) the percentage of electronic filing for trade mark applications was the lowest among the three types of applications persistently; (b) the percentage of electronic filing for trade mark applications received by IPD was lower than those of other major IP offices

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outside Hong Kong; and (c) IPD had introduced preferential fee reduction for electronic filing of patent applications but not for that of trade mark or design applications (paras. 2.27 and 2.31).

7. *Need to consider setting performance targets on some key steps in the application processes.* IPD has included in its Controlling Officer's Report 20 key performance measures in respect of its statutory functions, comprising 6 targets and 14 indicators. Audit noted that no targets or indicators were set in relation to: (a) the timeliness of issuing the first letters to applicants during the deficiencies checking stage for trade mark registration; and (b) the timeliness of processing applications during the examination on formal requirements stage for patent registration and design registration. These steps constituted a considerable proportion of the average processing time of the respective types of applications (paras. 2.34 to 2.36).

8. *Some costing statements not submitted to the Financial Services and the Treasury Bureau (FSTB) to support costing reviews.* It is stipulated in the Financial Circular No. 6/2016 entitled "Fees and Charges" that Controlling Officers should conduct costing reviews for fees once a year. For the annual costing reviews for 2015-16 to 2019-20 price levels, in some cases, IPD had not submitted costing statements to the Treasury for vetting and/or to FSTB, contrary to the Financial Circular requirements (paras. 2.39 and 2.40).

Promotion of intellectual property protection

9. *Need to step up efforts in promoting public awareness of IP protection.* In order to evaluate the change in awareness level on IP among the public, IPD has periodically conducted the Survey on Public Awareness of Intellectual Property Right Protection (PAIP survey) since 1999. Audit noted that for the PAIP survey completed in 2018, of the 1,003 respondents interviewed: (a) 74% were not aware that IPD was the Government department responsible for promoting the protection of IP rights in Hong Kong; (b) 49% were not aware of the promotional activities of IPD; and (c) 36% considered that the promotional activities of IPD were quite/very ineffective (paras. 3.3 and 3.5).

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10. ***Need to review the promotional expenditure spent on different channels.*** Audit analysed the expenditure incurred by IPD in 2018-19 on placing advertisements through different channels to promote IP protection and noted that: (a) while 19% of the expenditure was spent on advertisements at the airport and immigration control points, its effectiveness was not evaluated in the PAIP survey; and (b) while only a small percentage of the respondents perceived that advertisements on bus was the most effective advertising channel, 11% of the expenditure was spent on bus advertisements, higher than those spent on other channels which were perceived to be more effective according to the PAIP survey (para. 3.8).

11. ***Room for improvement for the No Fakes Pledge (NFP) Scheme.*** IPD launched the NFP Scheme in 1998. Participating merchants in the Scheme must volunteer to make a pledge not to sell fakes, and may post the No Fakes (NF) stickers and place tent cards in their shops. IPD is the coordinator of the Scheme, and there are four supporting organisations for the Scheme including the Customs and Excise Department (C&ED). Audit noted that: (a) the number of physical shops covered under the Scheme decreased by 274 (4%), from 6,785 in 2015 to 6,511 in 2019 and up to 31 December 2019, only 166 online shops were covered; (b) as at 11 February 2020, of the 1,225 retail merchants who were members in 2019, 318 (26%) had not renewed their membership; (c) of the 9 retail shops visited by Audit in January 2020 whose NFP Scheme membership had already been suspended or terminated, 2 (22%) were still displaying the NF logo on promotional materials in their shops; and (d) IPD had not taken prompt follow-up actions after raid operations were taken against three member shops by C&ED (paras. 3.13 to 3.16, 3.21, 3.26 and 3.28).

12. ***Room for improvement for the IP Manager Scheme.*** The IP Manager Scheme was launched in 2015 with an aim of assisting Hong Kong enterprises to build up their IP manpower capacity and to increase competitiveness so as to grasp the opportunities brought by IP trading. Audit noted that: (a) the number of new participating enterprises decreased by 38% from 242 in 2017-18 to 151 in 2018-19; and (b) in the period from 2015-16 to 2018-19, the attendance rate of training programmes under the Scheme had decreased from 97.7% to 86.3% (paras. 3.36, 3.37 and 3.40).

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Administrative issues

13. *Need to enhance competition in procurement of outsourced services.* In the period from 2001 to 2019, IPD awarded six outsourcing contracts through open tenders for some of its non-core services, with a total contract value amounting to \$335.4 million. Audit reviewed the tender exercises conducted by IPD in the period from 2001 to 2019 and noted that 9 bids were received for one contract for the tender exercise in 2001 while only 1 to 4 bids were received for the other five contracts for the tender exercises in 2006 to 2019. Audit noted that: (a) since 2014, the tenderer's experience had been the sole criteria for IPD's tender evaluation other than the tender price. In October 2018, it was announced in the 2018 Policy Address that the Government would introduce a pro-innovation government procurement policy in April 2019, raising the technical weighting in tender assessment with a view to promoting innovation. However, for the tender exercise conducted in March 2019, IPD used the evaluation approach adopted for the previous contract and included tenderer's experience as the only essential requirement; and (b) according to the Stores and Procurement Regulations, departments are encouraged to conduct a market research or non-binding expression of interest (EOI) exercise to better understand the goods or services likely to be available in the market. Although IPD received only two tender proposals in the 2006 tender exercise, it did not conduct any market research or EOI exercise for the subsequent tender exercises (paras. 4.2, 4.3, 4.5 to 4.7 and 4.10).

14. *Need to strengthen the monitoring of contractor's performance.* Audit noted that: (a) according to the contract for IPD's office operation service (with contract period from December 2014 to November 2019), Management Committee and business review meetings should be held at least once every three months. However, 11 (55%) of the 20 Management Committee meetings and 11 (65%) of the 17 business review meetings during the contract period were held longer than three months after the previous meeting; and (b) the guidelines on checking of contractor's performance report only showed how the deduction of monthly charges was computed, but detailed procedures on other checks were not included (para. 4.13).

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Audit recommendations

15. Audit recommendations are made in the respective sections of this Audit Report. Only the key ones are highlighted in this Executive Summary. Audit has *recommended* that the Director of Intellectual Property should:

Registration of trade marks, patents and designs

- (a) take measures to expedite the processing of trade mark applications (para. 2.32(b) and (c));
- (b) closely monitor and take measures to reduce the backlog of outstanding patent applications (para. 2.32(d));
- (c) closely monitor the waiting time for hearings and take measures to shorten the time when the situation warrants (para. 2.32(f));
- (d) explore measures to further increase the rate of electronic filing for trade mark applications (para. 2.32(g));
- (e) review the coverage of IPD's existing targets on the timeliness of processing trade mark, patent and design applications and consider setting a target on the time taken to issue the first report during examination on formal requirements for patent and design applications (para. 2.37);
- (f) ensure that the prevailing government guidelines on fees and charges are complied with (para. 2.44(a));

Promotion of IP protection

- (g) step up efforts on promotion of public awareness of IP protection (para. 3.11(a) and (b));
- (h) boost the membership of the NFP Scheme (para. 3.33(a) to (c));

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- (i) **take measures to prevent misuse of the NF logo on promotional materials by shops which are not members of the NFP Scheme (para. 3.33(e));**
- (j) **take measures to ensure that prompt follow-up actions are taken against participating merchants of the NFP Scheme upon raid operations for IP rights infringement (para. 3.33(f));**
- (k) **step up efforts to boost the attractiveness of the IP Manager Scheme and the attendance rate of the training programme under the IP Manager Scheme (para. 3.43(a) and (b));**

Administrative issues

- (l) **in conducting tender exercises for the procurement of outsourced services, set evaluation criteria that dovetail with the new pro-innovation government procurement policy (para. 4.16(a));**
- (m) **conduct market research or non-binding EOI exercises for tender exercises with a view to ascertaining the market supply of the services required (para. 4.16(b)); and**
- (n) **take measures to strengthen the monitoring of the contractor's performance (para. 4.16(c)).**

Response from the Government

16. The Director of Intellectual Property generally agrees with the audit recommendations.

CHAPTER 6

Financial Services and the Treasury Bureau Official Receiver's Office

<h4>Management of insolvency services</h4>

**Audit Commission
Hong Kong
2 April 2020**

This audit review was carried out under a set of guidelines tabled in the Provisional Legislative Council by the Chairman of the Public Accounts Committee on 11 February 1998. The guidelines were agreed between the Public Accounts Committee and the Director of Audit and accepted by the Government of the Hong Kong Special Administrative Region.

Report No. 74 of the Director of Audit contains 8 Chapters which are available on our website at <https://www.aud.gov.hk>

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MANAGEMENT OF INSOLVENCY SERVICES

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MANAGEMENT OF INSOLVENCY SERVICES

Executive Summary

1. The Official Receiver's Office (ORO) is responsible for providing insolvency services in Hong Kong, including the compulsory winding-up of companies and personal bankruptcy under the Companies (Winding Up and Miscellaneous Provisions) Ordinance (C(WUMP)O – Cap. 32) and the Bankruptcy Ordinance (Cap. 6) respectively. In 2019-20, ORO's estimated expenditure was \$223 million, of which \$177 million (about 80%) was related to personal emoluments or personnel related expenses. The Audit Commission (Audit) has recently conducted a review to examine the management of insolvency services by ORO with a view to identifying areas for improvement.

Administration of in-house insolvency services

2. According to ORO, under the outsourcing schemes, nearly all winding-up cases and about 25% of debtor-petition summary bankruptcy cases are undertaken by private insolvency practitioners (PIPs). As at 31 December 2019, ORO was working on 20,349 bankruptcy cases (including 15,384 undischarged bankruptcy cases), 190 winding-up cases (carried forward from previous years before all winding-up cases were undertaken by PIPs), 471 outstanding winding-up petitions and 81 winding-up cases on the release programme (para. 2.2). Audit examination has revealed the following areas for improvement:

- (a) ***Time target not met for processing summary bankruptcy cases with no monthly contributions but with assets for distribution.*** According to ORO Circular of May 2000, for summary bankruptcy cases with no monthly contributions but with assets for distribution, they should be placed on the release programme within 18 months from the dates of bankruptcy orders. During the period from 2016 to 2018, the annual achievements of the 18-month target for processing these summary cases were below 50%, ranging from 34% to 40%. As the timeliness of processing cases with possible assets for realisation and distribution is a prime concern of creditors, ORO needs to continue to closely monitor the achievement of the

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18-month target, and formulate effective strategies for dealing with cases with difficulties in asset realisation in order to meet the target processing time (paras. 2.3, 2.4 and 2.7);

- (b) ***Performance target on distribution of dividends not clearly defined.*** As stated in ORO's Controlling Officer's Report, there was a target processing time of nine months relating to distribution of dividends (i.e. "completing procedures when the distribution is possible"). According to ORO's guidelines, the point in time when the distribution is possible (i.e. the starting point for counting the target processing time of nine months) was: (i) the month when the cash balance meets the threshold of \$70,000 for a bankruptcy case and \$200,000 for a winding-up case; or (ii) the date of receipt by the Dividend Unit when a case with cash balance below the thresholds was referred by the case officer. With a view to clearly defining the performance target on distribution of dividends in the Controlling Officer's Report, ORO needs to specify more clearly in the Report the performance target for completion of procedures for distribution of dividends (paras. 2.9 to 2.11);
- (c) ***Clearing exercise of pre-2002 insolvency cases not yet completed.*** In March 2008, ORO commenced an exercise with a view to clearing the outstanding matters of the 1,200 pre-2002 insolvency cases (i.e. cases with date of bankruptcy order or winding-up order before 2002) as soon as possible. However, as at 31 December 2019, more than 11 years after the commencement of the exercise, 200 (17%) pre-2002 insolvency cases (comprising 107 bankruptcy cases and 93 winding-up cases) still remained outstanding (para. 2.12);
- (d) ***Need to formulate effective strategies for handling bankruptcy cases involving landed properties.*** With a view to taking more effective follow-up actions in asset realisation, in December 2014, the Project Work Section was set up under the Case Management Division to deal with the majority (i.e. 2,790 cases) of long outstanding landed properties (e.g. residential properties, commercial properties, car parking spaces and land lots) vested in the Official Receiver as trustee in various bankruptcy cases. For other outstanding landed properties that had not been taken up by the Project Work Section in 2014 and the new landed properties vested in the Official Receiver as trustee thereafter, they were handled by individual case officers. Audit noted that, as at 31 December 2019, 1,996 cases remained outstanding. Of them, the bankruptcy orders of 1,565 (78.4%) cases were

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made before 2006 (i.e. over 14 years ago). Given that the period of bankruptcy is generally four years (up to a maximum of eight years if the court makes an order under the Bankruptcy Ordinance to extend the bankruptcy), it was not entirely satisfactory that there were a notable number of bankruptcy cases involving landed properties vested in the Official Receiver as trustee for over 14 years but still not yet resolved (paras. 1.8, 2.14 to 2.16 and 2.18); and

- (e) ***Large balance in suspense accounts.*** According to ORO's guidelines, for winding-up cases and bankruptcy cases of which the Official Receiver acts as liquidator/trustee, all the company liquidation estates and bankruptcy estates recovered should be placed in the Companies Liquidation Account and the Bankruptcy Account respectively. Interest earned from these estates is transferred to the general revenue annually. Audit noted that as at 30 November 2019, ORO had placed monies recovered from 21 winding-up cases (amounting to \$4.7 million) and 207 bankruptcy cases (amounting to \$40.2 million) in the suspense accounts. In particular, 8 (38%) of the 21 winding-up cases were released cases and 29 (14%) of the 207 bankruptcy cases were released/rescinded/withdrawn cases. It is less than satisfactory that monies have been put into suspense accounts for a long time pending clarifications, particularly for amounts belonging to the estate of the liquidation or bankruptcy that should have been accounted for in the Companies Liquidation Account and the Bankruptcy Account (paras. 2.22 to 2.24 and 2.26).

Monitoring of private insolvency practitioners

Management of outsourcing schemes

3. At present, ORO operates four outsourcing schemes, including: (a) the Panel A scheme (an administrative scheme for appointing liquidators or special managers in non-summary winding-up cases); (b) the Panel T scheme (an open tender system for appointing provisional liquidators/liquidators in summary winding-up cases); (c) the debtor-petition summary bankruptcy case scheme (an open tender system for appointing provisional trustees/trustees in debtor-petition summary bankruptcy cases); and (d) the preliminary examination scheme (an open tender system for appointing professional firms to perform preliminary work relating to debtor-petition bankruptcy cases handled by ORO). According to ORO, it adopts various measures (e.g. conducting quality audits and field audits) to monitor the

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performance of the PIPs under the four outsourcing schemes. If there is a breach of statutory or contractual duties, ORO may take regulatory actions against the PIPs (paras. 3.2 and 3.3). Audit examination has revealed the following areas for improvement:

- (a) ***Need to conduct quality audits for Panel T scheme.*** According to the Conditions of Contract of the tenders, ORO will conduct quality audits on the cases allocated to PIPs under the Panel T scheme and debtor-petition summary bankruptcy case scheme. When conducting a quality audit, the case officer examines the adequacy and quality of key areas of the administration work (e.g. applying for summary procedure order and realising assets) performed by the PIP. However, Audit noted that for the Panel T scheme, no quality audits had been conducted up to 31 January 2020 (paras. 3.4 and 3.6);
- (b) ***Need to ensure that the target coverage of field audits on cases outsourced under Panel T scheme is met.*** ORO staff are required to conduct field audits of the selected cases outsourced under the Panel T scheme and debtor-petition summary bankruptcy case scheme respectively. Audit noted that for the two most recently completed contracts (covering the period from April 2014 to March 2016 and April 2016 to March 2018) of the Panel T scheme, field audits had been completed on only 3.1% and 2.7% (i.e. 78% and 68% of the target coverage) of the cases outsourced under the two contracts respectively (paras. 3.8 and 3.9);
- (c) ***Need to issue warning letters for PIPs' unsatisfactory performance.*** According to the Conditions of Contract of the tenders of the Panel T scheme, the debtor-petition summary bankruptcy case scheme and the preliminary examination scheme, ORO may issue warning letters to the PIPs for their unsatisfactory performance (e.g. failure to submit preliminary examination questionnaires within 7 working days of the interview with the bankrupts). Allocation of cases to PIPs would be suspended for one or two months when a certain number of warning letters have been issued. For PIPs which have been suspended for case allocation for two months or more in the previous two contracts, they will not be considered for tender assessment. However, Audit found that in the period from 2016 to 2019, no warning letters had been issued. Audit also noted that during the period, there were 8 incidents of PIPs of the preliminary examination scheme failing to submit the preliminary examination questionnaires within 7 working days of the interview with the bankrupts

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and warning letters could have been issued to these under-performing PIPs according to the Conditions of Contract of the tenders (paras. 3.11 to 3.13 and 3.15); and

- (d) ***Need to make continuous improvement in monitoring performance of PIPs.*** According to ORO Circular of October 2013, for cases handled by all PIPs (appointed under the outsourcing schemes, or by the court or creditors), case officers are required to monitor the PIPs' conduct or performance in accordance with the relevant statutory and contractual requirements. Case officers should report unsatisfactory conduct or performance of PIPs in a standard form for central keeping by the Compliance and Regulatory Section. Audit reviewed the registers of unsatisfactory conduct of PIPs, which contained the standard forms completed by case officers and would be reviewed when assessing the past performance of PIPs for tender evaluation, and noted that: (i) while a notable number of liquidator's accounts and trustee's accounts were outstanding from PIPs as at 31 December 2019, no such information was recorded in the registers; and (ii) six substantiated or partially substantiated complaints against PIPs received in the period from 2015 to 2019 were not recorded in the registers (paras. 3.16 and 3.17).

Accounts submitted by PIPs

4. A PIP shall submit an account of his receipts and payments as the liquidator (i.e. liquidator's account) to ORO twice a year. For bankruptcy cases, ORO requires a PIP to submit an account of his receipts and payments as the trustee (i.e. trustee's account) every two years. In submitting the account, the trustee is required to remit to ORO the ad valorem fee, which is charged at progressively reducing rates from 10% to 1% on the aggregate amount of the assets realised. ORO may cause the submitted liquidator's accounts and trustee's accounts to be audited. All accounts shall be filed with the court and made available for inspection by any interested parties upon payment of a fee (para. 3.20(b)). Audit examination has revealed the following areas for improvement:

- (a) ***Need to review and enhance follow-up actions taken on long overdue accounts.*** Submission of accounts by liquidators and trustees are statutory requirements stipulated in C(WUMP)O and the Bankruptcy Ordinance. Late submission of accounts to ORO may also lead to delay in remitting ad valorem fees to ORO. Audit noted that as at 31 December 2019, there

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were 763 liquidator's accounts and 15,355 trustee's accounts overdue but not yet submitted. Of them, 302 (40%) liquidator's accounts and 146 (1%) trustee's accounts had been overdue for more than five years. Audit also noted that besides issuing reminder letters, no other follow-up actions had been taken by ORO (paras. 3.21 and 3.22); and

- (b) *Need to improve examination/checking of accounts.* All liquidator's accounts and trustee's accounts submitted by PIPs are subject to an examination of content and accuracy or a cursory checking by ORO. Field audits are also conducted on selected accounts to inspect PIPs' books, accounts and vouchers. However, Audit noted that as at 31 December 2019, 30,972 accounts had been received but not yet examined/checked. Of these 30,972 accounts, 843 (2.7%) accounts had been received for more than five years (paras. 3.23 and 3.24).

Way forward

Modernisation of insolvency provisions

5. In October 1996 and July 1999, the Law Reform Commission of Hong Kong made a number of recommendations to update the local insolvency provisions, taking into account international practices. However, after a long lapse of time, two significant proposals have not yet been implemented. They were: (a) the statutory corporate rescue procedure (i.e. to impose a moratorium during which a company is protected from creditors' action and put under the control of a provisional supervisor whose task is to formulate an arrangement for agreement with its creditors or make other appropriate recommendations) and insolvent trading provisions (i.e. to impose a liability on responsible persons for insolvent trading once a company traded while insolvent or if the company continued to trade when there was no reasonable prospect of preventing the company from becoming insolvent); and (b) cross-border insolvency. As stated in the report of July 1999 of the Law Reform Commission of Hong Kong, the treatment of cross-border insolvency was important in Hong Kong because of its status as an international business and financial centre, given that a large proportion of companies listed in Hong Kong were registered abroad (paras. 1.19, 4.2 and 4.7). Audit examination has revealed the following areas for improvement:

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- (a) *Need to introduce the bill on corporate rescue procedure and insolvent trading provisions into Legislative Council in a timely manner.* In October 2015, the Financial Services and the Treasury Bureau (FSTB) informed the Legislative Council that the target was to introduce the bill on corporate rescue procedure and insolvent trading provisions into the Legislative Council in 2017/18. However, up to January 2020 (i.e. over 23 years since the recommendation of the Law Reform Commission of Hong Kong in October 1996), the relevant bill had not yet been introduced into the Legislative Council (para. 4.6); and
- (b) *Need to sustain efforts in taking forward the domestic cross-border insolvency legislation and conduct public consultation as appropriate.* In order to provide certainty and align Hong Kong with other major jurisdictions, there has been a strong voice from the insolvency profession and from the court, calling for adoption of specific domestic legislation to deal with cross-border insolvency issues. As the cross-border insolvency matter is a complex subject requiring a careful and comprehensive deliberation, FSTB and ORO should continue to consider how to take forward the domestic cross-border insolvency legislation and conduct public consultation as appropriate (para. 4.11).

Deployment of manpower of ORO

6. *Need to conduct a strategic review on future manpower deployment.* Over the years, while there had been more outsourcing of cases and the number of insolvency cases had generally been on a decreasing trend, Audit noted that no staff savings had been achieved by ORO and the establishment of ORO had increased by 49 (22%) from 224 as at 31 March 2010 to 273 as at 31 March 2019. To meet future challenge, ORO needs to conduct a strategic review on future manpower deployment, having regard to the increased regulatory role, the progress of clearing backlog cases and the anticipated increase of insolvency caseload in the coming period (paras. 4.25 and 4.26).

Review of fees structure of ORO

7. *Need to minimise the impact of fluctuating cost recovery rates on fee charging.* In line with Government's policy of setting bankruptcy and winding-up fees and charges to recover the total costs for services of ORO as far as possible, it

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has been ORO's long established practice to adopt the global costing approach for achieving full cost recovery on an overall basis. In effect, this means that the fees charged in some insolvency cases will be higher than the actual costs incurred to defray the costs of administering other cases where there are no or inadequate assets to cover costs. Audit noted that after ORO's fee revision in 2013, ORO's cost recovery rates had fluctuated notably (ranging from 97% to 326%) and could meet the full-cost target (i.e. from 95% to 105%) only in 2013-14, 2016-17 and 2018-19. In order to address the significant fluctuations of cost recovery rates, in August 2018, ORO completed a preliminary review comparing the fees structures of ORO and insolvency authorities in other jurisdictions (e.g. the United Kingdom) with a view to considering possible options available for FSTB's consideration. However, up to January 2020, ORO had not completed the review of its fees structure (paras. 4.30 and 4.33 to 4.35).

Audit recommendations

8. **Audit recommendations are made in the respective sections of this Audit Report. Only the key ones are highlighted in this Executive Summary. Audit has *recommended* that the Official Receiver should:**

Administration of in-house insolvency services

- (a) **continue to closely monitor the achievement of the 18-month target for summary bankruptcy cases with no monthly contributions but with assets for distribution, and formulate effective strategies for dealing with cases with difficulties in asset realisation in order to meet the target processing time (para. 2.27(a));**
- (b) **specify more clearly in the Controlling Officer's Report the performance target for completion of procedures for distribution of dividends (para. 2.27(b));**
- (c) **formulate effective strategies for clearing the 200 pre-2002 long outstanding insolvency cases as soon as practicable and handling bankruptcy cases involving landed properties (para. 2.27(c) and (d));**

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- (d) **periodically review the balance kept in the suspense accounts, especially for released/rescinded/withdrawn cases, and take effective measures to ascertain the nature of the funds and transfer them back to the Companies Liquidation Account and the Bankruptcy Account where appropriate in a timely manner (para. 2.27(f));**

Monitoring of PIPs

- (e) **implement the procedures on conducting quality audits for the Panel T scheme as soon as practicable (para. 3.18(a));**
- (f) **remind the Financial Services Division to take measures to ensure that the target coverage of field audits is met (para. 3.18(b));**
- (g) **keep in view the need of issuing warning letters for PIPs' unsatisfactory performance including any prolonged delay in the submission of preliminary examination questionnaires in future (para. 3.18(c));**
- (h) **take measures to enhance the reporting and recording of unsatisfactory conduct or performance of PIPs (para. 3.18(d));**
- (i) **ensure that the registers of unsatisfactory conduct of PIPs are maintained properly and make continuous improvement in monitoring the performance of PIPs (para. 3.18(e) and (f));**
- (j) **review and enhance the follow-up actions taken on long overdue accounts from PIPs and the current procedures on the examination/checking of accounts from PIPs (para. 3.26);**

Way forward

- (k) **conduct a strategic review on future manpower deployment, having regard to the increased regulatory role, the progress of clearing backlog cases and the anticipated increase of insolvency caseload in the coming period (para. 4.28(a)); and**
- (l) **explore measures to minimise the impact of the fluctuating cost recovery rates on fee charging (para. 4.36).**

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9. **Audit has also *recommended* that the Secretary for Financial Services and the Treasury should, in collaboration with the Official Receiver:**

- (a) **take action to introduce the bill on corporate rescue procedure and insolvent trading provisions into the Legislative Council in a timely manner (para. 4.12(a)); and**
- (b) **continue to consider how to take forward the domestic cross-border insolvency legislation and conduct public consultation as appropriate (para. 4.12(b)).**

Response from the Government

10. **The Secretary for Financial Services and the Treasury and the Official Receiver agree with the audit recommendations.**

PART 1: INTRODUCTION

1.1 This PART describes the background to the audit and outlines the audit objectives and scope.

Background

1.2 The mission of the Official Receiver's Office (ORO) is to ensure that the insolvency services it provides in Hong Kong, including winding-up of companies and personal bankruptcy, is of high quality on par with international standards and that the legislation is commensurate with the objective of keeping Hong Kong to the forefront as a major international financial centre. It is responsible for administering the Companies (Winding Up and Miscellaneous Provisions) Ordinance (C(WUMP)O — Cap. 32) relating to the compulsory winding-up of companies (Note 1) and the Bankruptcy Ordinance (Cap. 6) relating to personal bankruptcy.

1.3 ORO's work involves:

- (a) the delivery of an effective in-house management insolvency service when appointed by the court or creditors as liquidator or trustee, and the management of the schemes for contracting out insolvency cases to the private sector;
- (b) the effective realisation of assets of insolvent companies and bankrupts at the earliest opportunity, adjudication of creditors' claims, and declaration of dividends to preferential and ordinary creditors as soon as possible; and
- (c) investigation into the conduct of bankrupts, directors and officers of insolvent companies and the causes of business failure, prosecution of insolvency offenders and implementation of the statutory provisions relating to the disqualification of company directors of insolvent companies.

Note 1: *ORO mainly administers compulsory winding-up cases. For voluntary winding-up cases, ORO is only responsible for keeping the unclaimed and undistributed money pursuant to C(WUMP)O and the Companies (Winding-up) Rules (Cap. 32H).*

Introduction

A consultancy study in 2002, which was commissioned by the then Financial Services Bureau (now the Financial Services and the Treasury Bureau (FSTB)) to review the role of ORO, recommended that the outsourcing policy of ORO should be continued. In line with the recommendation and also in order to handle the increased workload, ORO had contracted out more cases to private insolvency practitioners (PIPs).

1.4 Headed by the Official Receiver, ORO is organised into five divisions, as follows:

- (a) ***Case Management Division.*** When the Official Receiver is appointed by the court or creditors to act as trustee/liquidator, the Division is responsible for insolvency administration (e.g. realisation of assets and distribution of dividends). When ORO has contracted out cases to PIPs, or PIPs are appointed by the court or creditors to act as trustees/liquidators in compulsory winding-up or bankruptcy cases, the Division is responsible for monitoring their conduct (Note 2);
- (b) ***Legal Services Division 1.*** It is responsible for providing legal advice on all aspects of the administration of insolvent estates for the benefit of insolvent estates (e.g. appearing in court in interlocutory and final court hearings and instructing counsel in complicated cases);
- (c) ***Legal Services Division 2.*** It is responsible for investigating and prosecuting insolvency offenders, investigating and making application for disqualification of company directors, liquidators and receivers, and the legislative exercise of corporate rescue procedure;
- (d) ***Financial Services Division.*** It is responsible for performing financial and accounting investigations into insolvency cases, conducting statutory audits

Note 2: *According to ORO, all compulsory winding-up and bankruptcy proceedings as well as the PIPs appointed as provisional liquidators/liquidators and provisional trustees/trustees in the proceedings are supervised by the court. Committees of inspection and creditors' committees (see Note 5 to para. 1.16), if formed, will also superintend the PIPs and monitor the conduct of the administration of cases. As prescribed under C(WUMP)O and the Bankruptcy Ordinance, the Official Receiver is required to carry out certain monitoring and regulatory work, such as auditing accounts submitted, monitoring receipts and payments from insolvent estates in winding-up, monitoring compliance with statutory obligations and enquiring into complaints made against PIPs.*

of accounts submitted by outside trustees/liquidators, managing and investing insolvency monies, and performing departmental accounting functions; and

- (e) ***Departmental Administration Division.*** It is responsible for providing general administrative support and translation services, and performing human resource management functions.

An extract of the organisation chart of ORO as at 31 October 2019 is at Appendix A. As at 31 March 2019, ORO had a staff establishment of 273 (including 8 Directorate posts, 17 posts in Unified Solicitor grade, 4 posts in Treasury Accountant grade and 85 posts in Insolvency Officer grade). For 2019-20, ORO's estimated expenditure was \$223 million. About 80% (i.e. \$177 million) of the expenditures were related to personal emoluments or personnel related expenses.

Bankruptcy of insolvent individuals

1.5 ***Objectives.*** According to ORO, the primary objectives of the bankruptcy legislation are to:

- (a) enable a debtor who needs a moratorium to negotiate settlement with creditors to apply to the court at any time before or after the making of a bankruptcy order against him for an interim order to stay all legal proceedings against him;
- (b) provide relief and free the debtor, who is in a hopeless financial position, as expeditiously and as inexpensively as possible from his debts and liabilities so that the debtor can make a “fresh start”; and
- (c) ensure that the assets of the debtor are equitably used to pay genuine creditors ratably according to the amount owed to each of them.

1.6 ***Bankruptcy petitions.*** Under the Bankruptcy Ordinance, there are two types of bankruptcy petitions, namely:

Introduction

- (a) ***Creditor's petition.*** A creditor may file a bankruptcy petition with the court against an individual, a firm or a partner of a firm who owes him more than \$10,000; and
- (b) ***Debtor's petition.*** A debtor who is unable to repay his debts may file a bankruptcy petition against himself with the court.

Appendix B outlines the bankruptcy procedures under the Bankruptcy Ordinance.

1.7 ***Effects of bankruptcy.*** Major effects of bankruptcy include:

- (a) where a debtor is adjudged bankrupt upon making of bankruptcy order, any disposition of his/her property made after presentation of bankruptcy petition is void, and no creditor to whom the bankrupt is indebted in respect of any debt provable in bankruptcy shall have any remedy against the property or person of the bankrupt in respect of the debt, nor shall proceed with or commence any action or other legal proceedings, unless with the consent or leave of the court;
- (b) upon the making of the bankruptcy order, all the bankrupt's assets (including interest in real estate) are vested in the trustee and will remain so after the bankrupt's discharge from bankruptcy; and
- (c) a bankrupt may not be able to practise in certain professions (e.g. a lawyer or an estate agent) or act as a director of a limited company.

1.8 ***Discharge from bankruptcy.*** With effect from April 1998 (Note 3), for a bankrupt who has not previously been adjudged bankrupt and who has fully complied with the provisions under the Bankruptcy Ordinance, he will be automatically discharged from bankruptcy four years from the date of bankruptcy order. The

Note 3: *Before April 1998, there was no automatic discharge of bankrupts. A bankruptcy order would normally last for a lifetime, unless a bankrupt applied to the court for discharge and the application was approved. The number of bankruptcy orders made on debtor-petition bankruptcy cases increased from 33 in 1997 to 305 in 1998, 2,306 in 1999 and peaked at 23,655 in 2002. In the period from 2010 to 2019, the number of debtor-petition bankruptcy orders ranged from 6,664 to 9,353 each year.*

creditors or the trustee may object to the automatic discharge of a bankrupt on any of the grounds set out in the Bankruptcy Ordinance. Examples of grounds include non-cooperation and unsatisfactory conduct. If the objection is accepted by the court, the court may make an order under the Bankruptcy Ordinance to extend the bankruptcy for a period not exceeding four years. For a bankrupt who has previously been adjudged bankrupt, the relevant period of bankruptcy is five years from the date of bankruptcy order and the bankruptcy may be extended for a period not exceeding three years.

1.9 ***Profile of bankrupts.*** According to the annual statistics on profile of bankrupts released by ORO on its website (see Table 1), some details of the bankrupts in 2019 are as follows:

- (a) ***Age.*** The distribution of bankrupts in the age groups of “30 or below”, “above 30 to 40”, “above 40 to 50” and “above 50” was 16%, 24%, 25% and 35% respectively;
- (b) ***Monthly income.*** While 37% of the bankrupts had no monthly income, 50% had monthly income of \$20,000 or below;
- (c) ***Liabilities level.*** The liabilities level of 89% of the bankrupts was \$1 million or below. In particular, 22% had liabilities of \$200,000 or below and 35% had liabilities of above \$200,000 to \$400,000; and
- (d) ***Cause of bankruptcy.*** 44% and 27% of the bankruptcy cases were due to the lack of gainful employment and overspending respectively.

Table 1

Annual statistics on profile of bankrupts
(2019)

Age of bankrupts	Percentage
≤ 30	16 %
> 30 to 40	24 %
> 40 to 50	25 %
> 50	35 %
Total	100 %
Monthly income of bankrupts	Percentage
\$0	37 %
> \$0 to \$10,000	14 %
> \$10,000 to \$15,000	19 %
> \$15,000 to \$20,000	17 %
> \$20,000 to \$25,000	8 %
> \$25,000	5 %
Total	100 %
Liabilities level of bankrupts	Percentage
≤ \$200,000	22 %
> \$200,000 to \$400,000	35 %
> \$400,000 to \$600,000	19 %
> \$600,000 to \$800,000	9 %
> \$800,000 to \$1,000,000	4 %
> \$1,000,000 to \$2,000,000	7 %
> \$2,000,000 to \$6,000,000	3 %
> \$6,000,000	1 %
Total	100 %
Cause of failure of bankrupts	Percentage
Lack of gainful employment	44 %
Overspending	27 %
Others (Note)	29 %
Total	100 %

Source: ORO records

Note: Examples include “excessive use of credit facilities” and “gambling”.

1.10 ***Individual voluntary arrangement.*** The Bankruptcy Ordinance provides for an individual voluntary arrangement (IVA) as an alternative to bankruptcy. Applications for IVA may be made by:

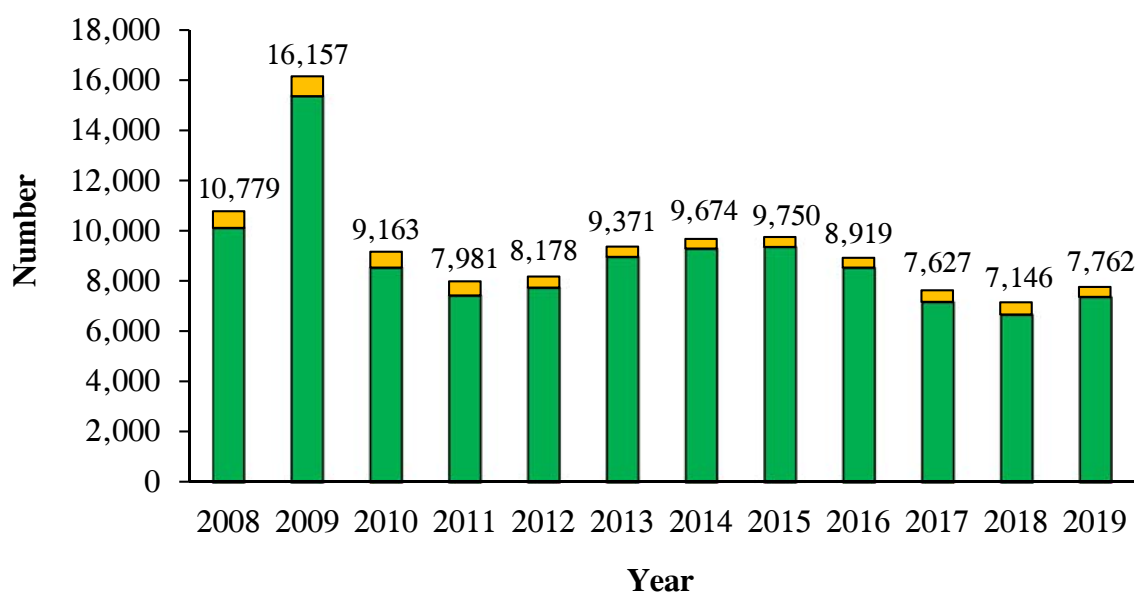
- (a) a debtor who has a problem with debt repayment; or
- (b) an undischarged bankrupt.

IVA involves application to the court for an interim order during which no bankruptcy petition or other legal proceedings may be taken or continued against the debtor. The debtor is required to make a repayment proposal to the creditors which, on approval, is binding on all creditors.

1.11 Figures 1 and 2 show the numbers of bankruptcy orders made by the court and approved IVAs registered in the period from 2008 to 2019. As shown in Figures 1 and 2, the number of bankruptcy orders made decreased by 28% from 10,779 in 2008 to 7,762 in 2019 and the number of approved IVA cases decreased by 69% from 2,020 in 2008 to 624 in 2019.

Figure 1

**Number of bankruptcy orders made
(2008 to 2019)**



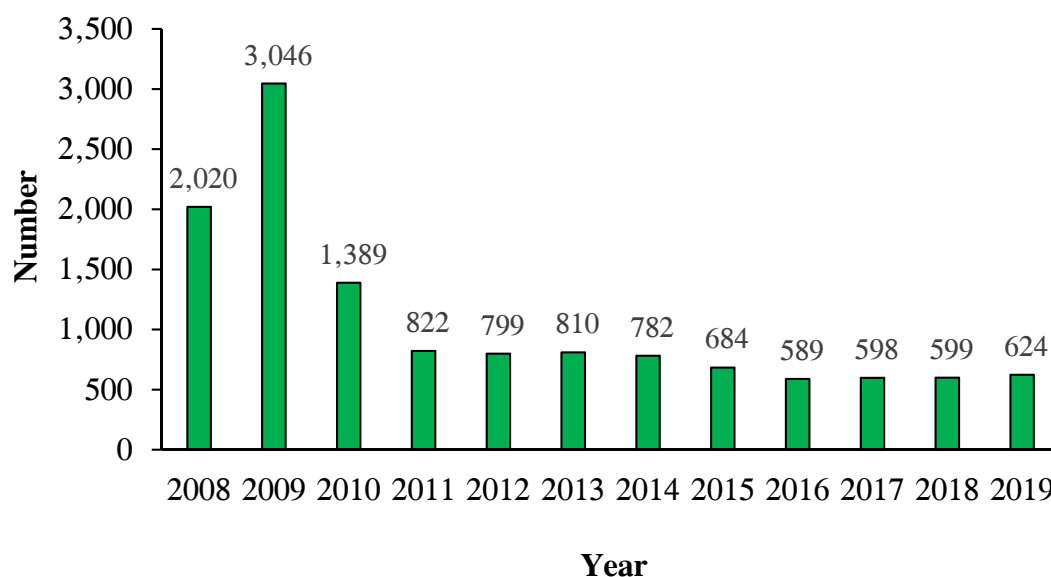
Legend: ■ Debtor-petition cases
■ Creditor-petition cases

Source: ORO records

Remarks: According to ORO, the trend of the number of insolvency cases is historically affected by the economic situation. In general, the number is likely to increase if the economic situation deteriorates and the unemployment rate increases and vice versa. Based on the growth rate of the cases in the second half of 2019 as compared with the first half of 2019, the number of new bankruptcy orders is estimated to further increase in 2020.

Figure 2

**Number of approved IVAs registered
(2008 to 2019)**



Source: ORO records

Compulsory winding-up of insolvent companies

1.12 ***Objectives.*** The main objectives of the companies winding-up are to:

- (a) ensure that all the company's affairs have been dealt with properly; and
- (b) have the company dissolved.

1.13 ***Winding-up petitions.*** A creditor, a shareholder or the company itself can file a winding-up petition against the company. A limited company may be wound up by the court in the circumstances set out in C(WUMP)O. The more common ones are:

- (a) the company is unable to pay a debt of \$10,000 or above;
- (b) the court is of the opinion that it is just and equitable that the company should be wound up; or

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- (c) the company has, by special resolution, resolved that the company be wound up by the court.

Appendix C outlines the winding-up procedures under C(WUMP)O.

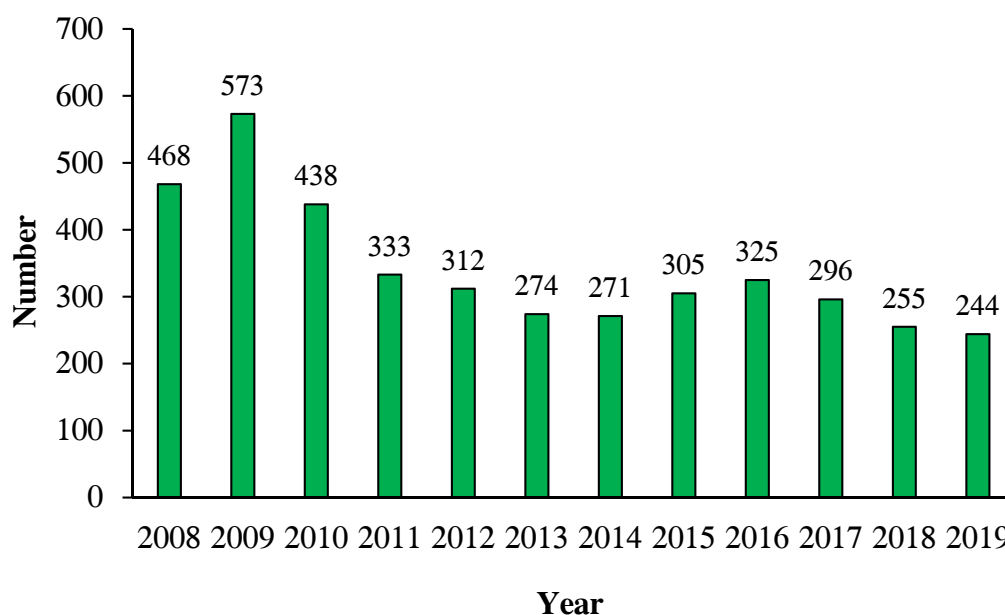
1.14 *Effects of compulsory winding-up.* After the winding-up order is made against the company:

- (a) any disposition of the property of the company (including any transfer of shares or alteration in the status of the shareholders of the company) made after the commencement of the winding-up, unless the court orders otherwise, is void;
- (b) no action or proceeding shall be continued or commenced against the company except with leave of the court; and
- (c) the liquidator will take over control of the company including its assets and accounting records.

1.15 As shown in Figure 3, the number of winding-up orders made decreased by 48% from 468 in 2008 to 244 in 2019.

Figure 3

**Number of winding-up orders made
(2008 to 2019)**



Source: ORO records

Remarks: According to ORO, the trend of the number of insolvency cases is historically affected by the economic situation. In general, the number is likely to increase if the economic situation deteriorates and the unemployment rate increases and vice versa.

Small bankruptcy and winding-up

1.16 Both the Bankruptcy Ordinance and C(WUMP)O have provisions stating that when the realisable assets of a bankruptcy or winding-up case are not likely to exceed \$200,000, the court may, upon application by the provisional trustee or provisional liquidator (Note 4), order that the case be administered in a summary manner. Comparing with non-summary cases, the following modifications will be adopted in administering summary cases:

Note 4: *According to ORO, generally, a provisional trustee/liquidator is appointed upon the making of the bankruptcy order/winding-up order to take over and preserve the assets of the bankrupt/wound-up company pending the appointment of the trustee/liquidator to handle the assets.*

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- (a) ***Bankruptcy cases.*** There will be no general meeting of creditors and no creditors' committee (Note 5) will be formed. The provisional trustee will be appointed as the trustee; and
- (b) ***Winding-up cases.*** There will be no first meeting of creditors and contributories, and no committee of inspection (see Note 5) will be formed. The provisional liquidator will be appointed as the liquidator.

Other modifications with a view to saving expense and simplifying procedure may also be prescribed.

Corporate insolvency law reform

1.17 The nature of doing business generally requires that companies operate on credit, which enables them to trade, develop and expand. Corporate insolvency law is necessary to resolve all claims against insolvent companies, and to provide a fair and orderly process for realising and collecting the assets of insolvent companies and distributing them among creditors. It is important to ensure that the legislation in Hong Kong provides an effective process of liquidation and does not lag behind other major jurisdictions. It is also imperative to ensure that the corporate winding-up regime can keep up with the latest developments in Hong Kong.

1.18 ***International ranking in resolving insolvency.*** The World Bank Group (Note 6) publishes an annual study entitled “Doing Business” which measures the regulations that enhance business activity and those that constrain it. The study presents quantitative indicators on business regulations and the protection of property

Note 5: *The creditors' committee or committee of inspection, which usually comprises creditors, is appointed at a meeting of creditors and provides assistance and guidance to the trustee or liquidator in the performance of his duties (e.g. to approve the exercise of certain powers by the trustee or liquidator in accordance with the Bankruptcy Ordinance or C(WUMP)O). When there is no creditors' committee or committee of inspection, the court may, on the application of the trustee or liquidator, do any act and give any permission which the committee could have done or given.*

Note 6: *Established in 1944, the World Bank Group is an institution in the United Nations system. It is a unique global partnership working for sustainable solutions that reduce poverty and build shared prosperity in developing countries.*

rights that can be compared across 190 economies (e.g. the United Kingdom, the United States and Singapore). In the annual study, regulations affecting various areas (e.g. “starting a business”, “registering property” and “getting credit”) of the life of a business, including the “resolving insolvency” (Note 7), are covered to determine the overall ranking on the “ease of doing business”. In the annual study published in October 2019, while Hong Kong’s overall ranking in the “ease of doing business” was 3, the ranking in the “resolving insolvency” was 45, which represented a drop of 17 places from 28 in the report published in October 2016 (see Table 2). This was attributable partly to the absence of a statutory framework recognised by the World Bank Group to deal with corporate rescue issues (Note 8).

Note 7: *For “resolving insolvency”, the study examines the time, cost and outcome of insolvency proceedings involving domestic entities as well as the strength of the legal framework applicable to judicial liquidation and reorganisation proceedings. The data for this area are derived from questionnaire responses by local insolvency practitioners and verified through a study of laws and regulations as well as public information on insolvency systems.*

Note 8: *Comparing the two studies published in October 2019 and October 2016, while Hong Kong’s performance in respect of time, cost and outcome of insolvency proceedings involving domestic entities remained the same, the score of the strength of insolvency framework applicable to judicial liquidation and reorganisation proceedings dropped from 9 to 6 (out of 16). In particular, Hong Kong scored 2 points less in relation to reorganisation aspects. According to ORO, it was because since the study published in October 2017, the scheme of arrangement (i.e. arrangements and compromises under the Companies Ordinance) in Hong Kong was no longer recognised as a reorganisation as defined by the World Bank Group.*

Table 2

**International ranking reported in the
“Doing Business” studies
(2016 to 2019)**

Year of publication	International ranking	
	“Ease of doing business”	“Resolving insolvency”
2016	4	28
2017	5	43
2018	4	44
2019	3	45

Source: Audit analysis of the “Doing Business” study results published by the World Bank Group in the period from 2016 to 2019

1.19 **Corporate rescue and insolvent trading.** Throughout the years, in order to better protect investment and preserve employment, PIPs and the general public have called for modernising insolvency law to rescue financially troubled businesses and curb the continued trading of insolvent companies. In its report entitled “Corporate rescue and insolvent trading” issued in October 1996, the Law Reform Commission of Hong Kong (LRC) recommended the introduction of a statutory corporate rescue procedure (i.e. to impose a moratorium during which a company is protected from creditors’ action and put under the control of a provisional supervisor (an independent professional third party) whose task is to formulate an arrangement for agreement with its creditors or make other appropriate recommendations) and provisions on insolvent trading (i.e. to impose a liability on responsible persons for insolvent trading once a company traded while insolvent or if the company continued to trade when there was no reasonable prospect of preventing the company from becoming insolvent). Up to January 2020, Hong Kong had no statutory corporate rescue procedure and provisions on insolvent trading.

1.20 ***Cross-border insolvency.*** Cross-border insolvency (sometimes called international insolvency) regulates the treatment of financially distressed debtors where such debtors have assets or creditors in more than one jurisdiction (Note 9). Private practitioners of the insolvency profession generally consider that it is pertinent to put in place a fair and efficient administration of cross-border insolvency proceedings in Hong Kong which protects the interests of all creditors and other interested persons, including the debtors, on a global basis. In its report entitled “The winding-up provisions of the Companies Ordinance” issued in July 1999, LRC made various recommendations in relation to the winding-up provisions in the then Companies Ordinance (Cap. 32), including the introduction of provisions relating to the area of cross-border insolvency. While C(WUMP)O has come into operation in February 2017 to improve and modernise Hong Kong’s corporate winding-up regime, up to January 2020, Hong Kong had no statutory framework for cross-border insolvency.

Audit review

1.21 In 2012, the Audit Commission (Audit) completed a review on the insolvency services provided by ORO and the results were reported in Chapter 5 of the Director of Audit’s Report No. 58 of March 2012 (2012 Audit Report).

1.22 In November 2019, Audit commenced a review to examine the management of insolvency services by ORO, focusing on:

- (a) administration of in-house insolvency services (PART 2);
- (b) monitoring of private insolvency practitioners (PART 3); and
- (c) way forward (PART 4).

Audit has found room for improvement in the above areas and has made a number of recommendations to address the issues.

Note 9: *Cross-border insolvency mainly involves three different areas: (a) winding-up of foreign companies; (b) recognition and assistance to foreign liquidators; and (c) cross-border restructuring.*

General response from the Government

1.23 The Official Receiver agrees with the audit recommendations. She thanks Audit and expresses appreciation on Audit's efforts in conducting the audit review and putting forward recommendations to help improve the operation of ORO.

Acknowledgement

1.24 Audit would like to acknowledge with gratitude the full cooperation of the staff of FSTB and ORO during the course of the audit review.

PART 2: ADMINISTRATION OF IN-HOUSE INSOLVENCY SERVICES

2.1 This PART examines the administration of in-house insolvency services, focusing on the administration of casework.

Administration of casework

2.2 According to ORO, under the outsourcing schemes (see para. 3.2), nearly all winding-up cases (Note 10) and about 25 % of debtor-petition summary bankruptcy cases are undertaken by PIPs. As at 31 December 2019, ORO was working on 20,349 bankruptcy cases (including 15,384 undischarged bankruptcy cases), 190 winding-up cases (carried forward from previous years before all winding-up cases were undertaken by PIPs), 471 outstanding winding-up petitions and 81 winding-up cases on the release programme (Note 11).

Time targets for processing summary bankruptcy cases

2.3 According to ORO Circular of May 2000, there are two time targets for processing summary bankruptcy cases (i.e. cases with realisable assets which are not likely to exceed \$200,000 — see para. 1.16), as follows:

- (a) ***12-month target for summary cases with insufficient assets for distribution.*** Summary cases with insufficient assets for distribution should

Note 10: *According to ORO, for non-summary winding-up cases handled by ORO, ORO will act as provisional liquidator to administer the cases until a PIP is appointed as liquidator by the court upon application by the Official Receiver. Therefore, nearly all cases will be undertaken by PIPs eventually.*

Note 11: *After realising all the assets of the wound-up company/bankrupt and distributing the final dividend (if any), ORO will put an insolvency case on the release programme. For cases put on the release programme, ORO will apply to the court for releases in accordance with C(WUMP)O and the Bankruptcy Ordinance. A release order issued by the court will discharge the Official Receiver's liability from any act done or default made while acting as the liquidator or trustee in the administration of the relevant winding-up or bankruptcy proceedings.*

Administration of in-house insolvency services

be placed on the release programme within 12 months from the dates of bankruptcy orders; and

- (b) ***18-month target for summary cases with no monthly contributions but with assets for distribution.*** Summary cases with no monthly contributions but with assets for distribution should be placed on the release programme within 18 months from the dates of bankruptcy orders.

The performance in respect of the two time targets for processing summary bankruptcy cases are reported in the monthly meetings of the Case Management Division chaired by the Assistant Official Receiver (Case Management).

2.4 ***18-month target not met for summary cases with no monthly contributions but with assets for distribution.*** Audit noted that in the period from 2016 to 2018, while the annual achievements of the 12-month target for processing summary cases with insufficient assets for distribution were 99%, the annual achievements of the 18-month target for processing summary cases with no monthly contributions but with assets for distribution were below 50%, ranging from 34% to 40% (see Table 3).

Table 3

**Achievement of time targets
for processing summary bankruptcy cases
(2016 to 2018)**

Year	Achievement of time target (%)	
	12-month target for summary cases with insufficient assets for distribution	18-month target for summary cases with no monthly contributions but with assets for distribution
2016	99%	40%
2017	99%	39%
2018	99%	34%

Source: Audit analysis of ORO records

2.5 In February 2020, ORO informed Audit that the reasons for not meeting the 18-month target for summary cases with no monthly contributions but with assets for distribution mainly included the time taken for:

- (a) conducting investigation into bankrupts' affairs (e.g. transfer of assets before bankruptcy or trust properties in various kinds of assets, substantial assets disposed of by bankrupts before bankruptcy and disputes in interest of assets, etc.); and
- (b) realising assets (e.g. joint assets and shares in limited companies, etc.) for distributions.

2.6 **Performance reporting.** Audit noted that while the 12-month target for processing summary bankruptcy cases with insufficient assets for distribution was reported as a performance target (with planned achievement of 97%) in ORO's Controlling Officer's Report, the 18-month target for processing summary bankruptcy cases with no monthly contributions but with assets for distribution was not included in the Report. In response to Audit's enquiry, in February and March 2020, ORO said that:

- (a) the 18-month target should only be used as an in-house tool for monitoring progress, taking into account that the factors involved are complex and outside the control of ORO:
 - (i) the outstanding matters involve investigations, negotiations and realisation pertaining to assets recovery. For summary cases with no monthly contributions but with assets for distribution, making enquires to or obtaining information, documents or evidence from bankrupts and third parties are required. The time for completion varies case by case and it depends very much upon the progress of replies and investigations. Very often, a one-off successful enquiry is rare and repeated requests for information are necessary; and
 - (ii) realisation work on all these kinds of assets is not straight forward and a series of actions are required to be taken in order to recover the assets including in some cases the need to obtain legal advice. For example, negotiation with solvent owners, valuation of shares, searching for buyers, obtaining and studying the trust deeds of

provident fund schemes or Mandatory Provident Fund Schemes, pending administration of deceased estate process, locating evidence to pursue book debts, etc. are all necessary steps for realisation and they are time consuming. In appropriate cases, after exhausting all efforts and means, legal action is required for asset recovery and creditor's funding is needed for the purpose; and

- (b) under ORO's mechanism, there are regular reviews of the returns on cases failing to meet the 18-month target in order to monitor the progress of the outstanding cases and speed up case closure. By reviewing the reasons of cases for failing to meet the 18-month target, ORO may come up with suggestions to introduce some management tools (e.g. setting of some thresholds for taking no further actions for certain assets) to assist to solve those long outstanding problems. Case officers are also reminded that cases with sufficient assets for distribution should be referred to Dividend Unit (see para. 2.9) forthwith for distribution of dividends to creditors as early as possible and there is a system to bring up cases with estate balance meeting the dividend threshold for review. ORO considers that the measures in place can safeguard the timeliness of processing the cases with assets for distribution to creditors and they are so far effective.

2.7 In Audit's view, for summary bankruptcy cases with possible assets for realisation and distribution, the timeliness of processing the cases is a prime concern of creditors. Therefore, ORO needs to continue to closely monitor the achievement of the 18-month target for summary bankruptcy cases with no monthly contributions but with assets for distribution, and formulate effective strategies for dealing with cases with difficulties in asset realisation in order to meet the target processing time.

Performance target on distribution of dividends not clearly defined

2.8 According to ORO's Guidelines for Insolvency Officers (Bankruptcy), whenever funds available are clearly sufficient to make a meaningful payment/dividend (Note 12) to the creditors after making provision for all fees and

Note 12: *According to ORO's guidelines, when considering whether it is a meaningful payment/dividend to the creditors, various criteria, including whether the net sum available for distribution exceeds \$6,000 and whether the largest creditor would receive more than \$2,000, should be taken into consideration.*

expenses to date and those committed but unpaid, every effort should be made to distribute the preferential payment and dividends from the bankruptcy estate as appropriate as soon as possible. In case a full and final dividend cannot be distributed for the time being, an interim preferential payment and/or ordinary dividend should also be declared where appropriate.

2.9 The Dividend Unit of the Case Management Division is responsible for adjudication of claims and distribution of dividends for all in-house insolvency cases. ORO stated in the Controlling Officer's Report a target processing time of nine months relating to distribution of dividends (with planned achievement of 100%), as follows:

“completing procedures when the distribution is possible”

Audit reviewed ORO's achievement of the performance target in the three years from 2016 to 2018 and noted that ORO reported in the Controlling Officer's Reports that it had fully (i.e. 100%) met the target.

2.10 According to ORO's guidelines, the point in time when the distribution is possible (i.e. the starting point for counting the target processing time of nine months) was defined as follows:

- (a) the month when the cash balance meets the threshold of \$70,000 (Note 13) for a bankruptcy case and \$200,000 for a winding-up case; or
- (b) the date of receipt by the Dividend Unit when a case with cash balance below the thresholds was referred by the case officer.

2.11 With a view to clearly defining the performance target on distribution of dividends in the Controlling Officer's Report, Audit considers that ORO needs to specify more clearly in the Report the performance target for completion of procedures for distribution of dividends (see para. 2.10).

Note 13: *Before reducing to \$70,000 in March 2018, the thresholds for a debtor-petition bankruptcy case and a creditor-petition bankruptcy case were \$150,000 and \$200,000 respectively.*

Clearing exercise of pre-2002 insolvency cases not yet completed

2.12 In March 2008, ORO commenced an exercise with a view to clearing the outstanding matters of the 1,200 pre-2002 insolvency cases (i.e. cases with date of bankruptcy order or winding-up order before 2002) as soon as possible. However, Audit noted that as at 31 December 2019, more than 11 years after the commencement of the exercise, 200 (17%) pre-2002 insolvency cases (comprising 107 bankruptcy cases and 93 winding-up cases) still remained outstanding. Table 4 shows the ageing analysis of these 200 pre-2002 insolvency cases.

Table 4**Ageing analysis of 200 pre-2002 outstanding insolvency cases
(31 December 2019)**

Years elapsed from the date of bankruptcy order/ winding-up order	Number of cases		
	Bankruptcy (a)	Winding-up (b)	Total (c) = (a) + (b)
> 15 to 20	79	34	113
> 20 to 25	22	42	64
> 25 to 30	5	8	13
> 30 to 35	1	2	3
> 35 to 40	0	4	4
> 40	0	3 (Note 1)	3
Total	107 (Note 2)	93	200

Source: Audit analysis of ORO records

Note 1: The winding-up orders of the three winding-up cases were made in 1976.

Note 2: The number included 34 cases involving landed properties.

2.13 It is less than satisfactory that the clearing exercise has still not been completed after more than 11 years. Audit considers that ORO needs to formulate effective strategies for clearing the 200 pre-2002 long outstanding insolvency cases as soon as practicable.

Need to formulate effective strategies for handling bankruptcy cases involving landed properties

2.14 According to ORO, with a view to taking more effective follow-up actions in asset realisation, in December 2014, the Project Work Section was set up under the Case Management Division to deal with the majority (i.e. 2,790 cases) of long outstanding landed properties (e.g. residential properties, commercial properties, car parking spaces and land lots) vested in the Official Receiver as trustee in various bankruptcy cases. Audit noted that as at 31 December 2019, 1,415 (51%) cases remained outstanding.

2.15 For other outstanding landed properties that had not been taken up by the Project Work Section in 2014 and the new landed properties vested in the Official Receiver as trustee thereafter, they were handled by individual case officers. Audit noted that those outstanding cases amounted to 581 as at 31 December 2019.

2.16 Audit analysis of the dates of bankruptcy orders of those 1,996 (1,415 + 581) cases with outstanding landed properties revealed that the bankruptcy orders of 1,565 (78.4%) cases were made before 2006 (i.e. over 14 years ago) (see Table 5).

Table 5

**Analysis of outstanding bankruptcy cases
involving landed properties
(31 December 2019)**

Year of bankruptcy order	Number of cases (%)		Number of landed properties involved (%)	
Before 1991 (Note)	4	(0.2%)	4	(0.2%)
1991 to 1995	12	(0.6%)	13	(0.6%)
1996 to 2000	87	(4.4%)	100	(4.8%)
2001 to 2005	1,462	(73.2%)	1,524	(72.8%)
2006 to 2010	364	(18.2%)	381	(18.2%)
2011 to 2015	57	(2.9%)	61	(2.9%)
2016 to 2019	10	(0.5%)	10	(0.5%)
Total	1,996	(100.0%)	2,093	(100.0%)

Source: Audit analysis of ORO records

Note: For the case with the earliest bankruptcy order, the order was made some 35 years ago in 1985.

2.17 According to ORO:

- (a) in dealing with the outstanding landed properties, ORO has encountered various difficulties which hinder the expeditious disposal of the properties. They include:
 - (i) property market downturn for a number of years caused by the Asian financial crisis and global financial tsunami rendering sale at market value difficult;
 - (ii) sale cannot be proceeded with for properties of negative equity as market value of the properties is not sufficient to discharge the

outstanding mortgage and encumbrances and to cover the costs of the sale;

- (iii) refusal of solvent co-owner to sell the properties in open market or to purchase the bankrupt's share in the properties;
- (iv) financial inability of the solvent co-owner to purchase the bankrupt's share;
- (v) disputes over the ownership such as allegation of trust; and
- (vi) lack of funding for ORO to take action to facilitate sale under the Partition Ordinance (Cap. 352) or recover possession or resolve ownership issues.

Apart from the above-mentioned difficulties, among the outstanding landed properties, quite a number of them are overseas properties. This causes additional complications and difficulties in disposal of the properties;

- (b) given the difficulty in handling cases of landed properties and as most of the properties involved are public or low cost housing, ORO is using various tactics and strategies to deal with these cases (e.g. ORO is exploring the possibility of reverse mortgage where there is sufficient equity in the property). The issues involved can be complex and the task of finding solutions is time consuming and challenging;
- (c) when a bankruptcy order is made by the court, the Official Receiver will be appointed as trustee in bankruptcy. By virtue of the Bankruptcy Ordinance, the property of the bankrupt shall vest in the Official Receiver and it remains vested in the Official Receiver notwithstanding the discharge of the bankrupt. That includes landed property which in most cases, is the bankrupt's home or land held in his name or jointly with another person and is his major and most valuable asset. As trustee in bankruptcy, the Official Receiver has the fiduciary duty to deal with the property under her control honestly, in good faith, with proper skill and competence and in a reasonable manner, and is required to take all reasonable care to realise the property at the best price reasonably obtainable; and

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- (d) clearance of the backlog of bankruptcy cases involving landed properties is expected to be a long and arduous process. It requires skilful negotiation with various parties including potential purchasers and solvent co-owners. It also involves tedious and time-consuming work including but not limited to:
 - (i) obtaining up-to-date valuation of market price of the properties concerned;
 - (ii) negotiating with the solvent co-owners and potential purchasers on proposed sale and purchase of the properties or the bankrupts' interest in the properties as well as on the detailed terms and conditions therefor;
 - (iii) procuring any necessary approval from the Hong Kong Housing Authority for sale of flats under the Home Ownership Scheme and Tenants Purchase Scheme or from the relevant authority (e.g. Hong Kong Housing Society) for sale of other subsidised housing;
 - (iv) appointing estate agents for marketing the properties for sale;
 - (v) checking and resolving any matters on the intended sale or any claims on the property, such as division of sale proceeds between the parties, equitable accounting in respect of mortgage repayment and occupation rent, legal costs and disbursement of sale, sharing of the sum on apportionment accounts (e.g. rates, government rent, management fees and other outgoings), etc.;
 - (vi) checking and signing the conveyancing documents (e.g. provisional and formal agreement for sale and purchase, assignment, etc.); and
 - (vii) applying re-possession order or any other court order required for disposal of the properties concerned.

For joint properties, if amicable agreement cannot be reached with the co-owners, it may require an application to court under the Partition Ordinance for an order for sale and distribution of the net sale proceeds. The court would need to consider in that event whether there is any genuine

hardship caused to the parties concerned if such order is to be made. To support the case, ORO would need to make detailed submission on the application including background of the case, ORO's efforts made in realising the properties and the legal basis for making such an application.

2.18 While Audit noted the difficulties in handling landed properties, given that the period of bankruptcy is generally four years (up to a maximum of eight years (see para. 1.8)), it was not entirely satisfactory that there were a notable number of bankruptcy cases involving landed properties vested in the Official Receiver as trustee for over 14 years but still not yet resolved. Audit considers that ORO needs to formulate effective strategies for handling bankruptcy cases involving landed properties.

Long time taken to provide legal advice for case administration

2.19 The Legal Services Division 1 is responsible for providing legal advice on all aspects of the administration of insolvent estates for the benefit of insolvent estates. Audit noted that there was no time target set for the Legal Services Division 1 to provide legal advice to case officers.

2.20 In response to Audit's enquiry, in January 2020, ORO informed Audit that up to 31 December 2019, there were ten referrals of legal matters made by the Case Management Division to the Legal Services Division 1 for legal advice but remained outstanding, and these referrals were made in the period from June 2013 to September 2019. In particular, Audit noted that a number of specific legal issues relating to the handling of bankrupts' benefits in retirement schemes in bankruptcy cases had not been resolved since 2013. According to ORO, in the event, certain monies received from benefits or payments out from retirement schemes recovered by ORO, entitlement to which was uncertain, had not been distributed to creditors but placed in the suspense accounts for bankruptcy cases (see para. 2.23) since August 2018. According to ORO, while the complexity of legal advice varies significantly, for the most part Legal Officers give due priority and consideration to their cases and set their priorities accordingly. That said, there are a few particularly complicated legal issues that have been outstanding for some time and ORO is working very hard to resolve them.

2.21 In Audit's view, ORO needs to take measures to expedite the resolution of complex legal issues encountered in the administration of insolvency cases.

Large balance in suspense accounts

2.22 According to ORO's guidelines, for winding-up cases and bankruptcy cases of which the Official Receiver acts as liquidator/trustee, all the company liquidation estates and bankruptcy estates recovered should be placed in the Companies Liquidation Account and the Bankruptcy Account respectively. Interest earned from these estates is transferred to the general revenue annually (see para. 4.32).

2.23 Audit noted that as at 30 November 2019, ORO had placed monies recovered from 21 winding-up cases (amounting to \$4.7 million) and 207 bankruptcy cases (amounting to \$40.2 million) in the suspense accounts. According to ORO, the balance kept in the suspense accounts is normally held pending clarification of their title in due course or reserved for some particular case administration purpose (e.g. third party's money for intended annulment application) and where appropriate, the interest earned will remain in the suspense accounts instead of being transferred to the general revenue. Audit noted that according to ORO's guidelines, if a suspense account has been created, case officers should check the balance and ascertain the nature of the funds and transfer the balance back to the Companies Liquidation Account and the Bankruptcy Account as soon as possible.

2.24 Audit analysed the suspense accounts for winding-up and bankruptcy cases as at 30 November 2019 (see Tables 6 and 7) and noted that:

- (a) 8 (38%) of the 21 winding-up cases were released cases, that is, the Official Receiver had been released from the role of liquidators by the court; and
- (b) 29 (14%) of the 207 bankruptcy cases were released/rescinded/withdrawn cases.

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Table 6

**Suspense account for winding-up cases
(30 November 2019)**

Number of years from the date of winding-up order	Case status					
	Active		Released		Total	
	No.	Amount (\$)	No.	Amount (\$)	No.	Amount (\$)
> 20 to 25	8	1,005,837	4	105,551	12	1,111,388
> 25 to 30	1	19,200	2	12,356	3	31,556
> 30 to 35	2	707,073	1	100	3	707,173
> 35 to 40	2	2,807,675	—	—	2	2,807,675
> 40	—	—	1	8,716	1	8,716
Total	13	4,539,785	8	126,723	21	4,666,508

Source: Audit analysis of ORO records

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Table 7

**Suspense account for bankruptcy cases
(30 November 2019)**

Number of years from the date of bankruptcy order	Case status							
	Active		On release programme		Released/Rescinded/ Withdrawn		Total	
	No.	Amount (\$)	No.	Amount (\$)	No.	Amount (\$)	No.	Amount (\$)
≤ 4	60	6,734,252	22	1,225,933	4	203,759	86	8,163,944
> 4 to 8	35	6,754,313	2	56,589	4	1,627,846	41	8,438,748
> 8 to 12	16	2,749,998	—	—	1	789	17	2,750,787
> 12 to 16	26	8,310,065	1	1,643,987	7	635,458	34	10,589,510
> 16 to 20	9	8,055,874	1	885,061	8	982,911	18	9,923,846
> 20	4	188,245	2	88,000	5	57,823	11	334,068
Total	150	32,792,747	28	3,899,570	29	3,508,586	207	40,200,903

Source: Audit analysis of ORO records

2.25 In response to Audit's enquiry, in February and March 2020, ORO informed Audit that:

- (a) the balance held in the released cases was mainly payments of various nature received after release (e.g. payments from Mandatory Provident Fund Schemes and other provident fund schemes) pending clarification of their title. As for the rescinded and withdrawn cases, the balance was required to be refunded to relevant parties and action had been taken to locate the latter;
- (b) the main reason for putting into the suspense account of a case certain amount of money received during the course of the administration of the case was that such amount of money did not form part of the estate of the bankruptcy or liquidation. Further clarifications would be needed before it could be confirmed that such amount of money belonged to the estate of the

bankruptcy or liquidation. While there were different scenarios under which a certain amount of money was put into the suspense accounts, the fact that the sum was put into the suspense account means that such sum, or at least a portion of it, did not belong to the estate of the bankruptcy or liquidation and hence there should not be any loss to the estate of the bankruptcy or liquidation; and

- (c) as of early March 2020:
 - (i) regarding the suspense accounts for winding-up cases, 1 of the 21 cases had been cleared. For the remaining 20 cases, their suspense accounts were created before 2012. In particular, the suspense accounts of 14 (70% of 20) cases amounting to \$3.9 million were created before 1999; and
 - (ii) regarding the suspense accounts for bankruptcy cases, 12 of the 207 cases had been cleared. For the remaining 195 cases, while the suspense accounts of 4 (2%) cases amounting to \$43,000 were created before 1999, most of the funds of others were put into the suspense accounts in the past few years. In particular, the suspense accounts of 93 (48%) cases amounting to \$8 million were created in 2019. Of the 195 cases, 83 cases (\$11.7 million) related to the unresolved legal issue in handling bankrupts' benefits in retirement schemes, 18 cases (\$1.1 million) related to severance/long service payments to bankrupts and 7 cases (\$0.8 million) represented third party monies/funding from creditors.

2.26 In Audit's view, it is less than satisfactory that monies have been put into suspense accounts for a long time pending clarifications, particularly for amounts belonging to the estate of the liquidation or bankruptcy that should have been accounted for in the Companies Liquidation Account and the Bankruptcy Account. Audit considers that ORO needs to periodically review the balance kept in the suspense accounts, especially for released/rescinded/withdrawn cases, and take effective measures to ascertain the nature of the funds and transfer them back to the Companies Liquidation Account and the Bankruptcy Account where appropriate in a timely manner.

Audit recommendations

2.27 Audit has *recommended* that the Official Receiver should:

- (a) continue to closely monitor the achievement of the 18-month target for summary bankruptcy cases with no monthly contributions but with assets for distribution, and formulate effective strategies for dealing with cases with difficulties in asset realisation in order to meet the target processing time;**
- (b) specify more clearly in the Controlling Officer's Report the performance target for completion of procedures for distribution of dividends;**
- (c) formulate effective strategies for clearing the 200 pre-2002 long outstanding insolvency cases as soon as practicable;**
- (d) formulate effective strategies for handling bankruptcy cases involving landed properties;**
- (e) take measures to expedite the resolution of complex legal issues encountered in the administration of insolvency cases; and**
- (f) periodically review the balance kept in the suspense accounts, especially for released/rescinded/withdrawn cases, and take effective measures to ascertain the nature of the funds and transfer them back to the Companies Liquidation Account and the Bankruptcy Account where appropriate in a timely manner.**

Response from the Government

2.28 The Official Receiver agrees with the audit recommendations. She has said that ORO:

- (a) will continue to develop effective strategies for progressing cases with difficult issues involved in possible asset realisation, through discussion in the Case Administration Meetings and Bankruptcy Account Meetings and**

will, where possible, issue additional guidelines for case officers to help progress such cases;

- (b) will specify more clearly in the Controlling Officer's Report the performance target for completion of procedures for dividend distribution;
- (c) has already reviewed some of the pre-2002 insolvency cases in the Case Administration Meetings and Bankruptcy Account Meetings and formulated strategies to help clear some of the outstanding issues and concluded the cases concerned. ORO will continue to formulate effective strategies for clearing the remaining pre-2002 long outstanding insolvency cases as soon as practicable through continued discussion in these two Meetings and will, where possible, issue additional guidelines for case officers to help progress such cases;
- (d) has arranged regular meetings to refine strategies in handling the outstanding landed properties and also stepped up efforts to explore ways to resolve the issues involved in the cases, for example, liaising with stakeholders and relevant parties including financial creditors and the Hong Kong Housing Authority. ORO will continue to develop effective strategies for handling bankruptcy cases involving landed properties through discussion in the Case Administration Meetings and Bankruptcy Account Meetings and will, where possible, issue additional guidelines for case officers to help progress such cases;
- (e) will take measures to expedite the resolution of the complex legal issues affecting the administration of insolvency cases by case officers. The complexity of legal advice varies significantly and generally all Legal Officers give due priority and consideration to their cases and set their priorities accordingly. However, additional time is required to deal with complicated legal issues arising from time to time. That said, the Legal Services Division 1 has now put in place a performance pledge for the provision of timely legal advice in all cases referred to them; and
- (f) has already examined and monitored funds in the Bankruptcy Account and reviewed amounts kept in suspense accounts in the quarterly Bankruptcy Account Meetings with a view to having the monies distributed as soon as possible. ORO will continue with this practice.

PART 3: MONITORING OF PRIVATE INSOLVENCY PRACTITIONERS

3.1 This PART examines the monitoring of PIPs by ORO, focusing on:

- (a) management of outsourcing schemes (paras. 3.2 to 3.19); and
- (b) accounts submitted by PIPs (paras. 3.20 to 3.27).

Management of outsourcing schemes

3.2 ***Outsourcing schemes.*** At present, ORO operates four outsourcing schemes. Salient features of these schemes are as follows:

- (a) ***Panel A scheme.*** The scheme is an administrative scheme by ORO to nominate accountants who are members of the Hong Kong Institute of Certified Public Accountants for appointment as liquidators or special managers in non-summary winding-up cases in certain circumstances. Professional firms and their PIPs meeting the prescribed requirements may apply to the Admission Committee (Note 14) of the Panel A scheme for admission to the scheme. The firms and PIPs admitted will charge fees as approved by the committee of inspection or by the court to the insolvent companies' estates. No government subsidy would be provided even if the estates are insufficient to meet their costs. As at 31 January 2020, there were 11 Panel A PIPs;
- (b) ***Panel T scheme.*** The scheme is an open tender system to appoint professional firms (in the accounting, legal and secretarial fields) with relevant insolvency work experience to take up appointment as provisional liquidators/liquidators in summary winding-up cases under section 194(1A)

Note 14: *For administering the Panel A scheme, there is an Admission Committee, comprising three ORO officers (one of whom is the Chief Treasury Accountant acting as the chairman) and three representatives of the Hong Kong Institute of Certified Public Accountants. The Committee shall meet on a regular basis to consider new applications, review complaints and make any reprimands or disqualifications of PIPs from the scheme.*

of C(WUMP)O. These Panel T firms charge fees on a time-cost basis to the insolvent companies' estates and a government subsidy (up to their tendered amount) would be provided if the estates are insufficient to meet their costs. There are 10 Panel T PIPs under the contract from April 2018 to March 2020;

- (c) ***Debtor-petition summary bankruptcy case scheme.*** Under this outsourcing scheme, ORO selects professional firms by an open tender to handle about 25% of the debtor-petition summary bankruptcy cases. The selected PIPs charge their required remuneration (i.e. their tendered amount) for acting as provisional trustees/trustees to the petitioners' deposits (Note 15) and other fees to bankruptcy estates and there is no government subsidy provided. There were five PIPs under the contract from January 2018 to December 2019; and
- (d) ***Preliminary examination scheme.*** ORO selects professional firms for this outsourcing scheme by an open tender. The PIPs' services include interviewing the bankrupts of debtor-petition bankruptcy cases handled by ORO, explaining to them the bankruptcy procedures and examining their submitted preliminary examination questionnaires. The PIPs are remunerated by ORO (i.e. their tendered amount) out of the petitioners' deposits. There were four PIPs under the contract from January 2018 to December 2019.

3.3 ***Monitoring measures for outsourcing schemes.*** According to ORO, it adopts various measures (e.g. conducting quality audits) to monitor the performance of the PIPs under the four outsourcing schemes. If there is a breach of statutory or contractual duties, ORO may take regulatory actions against the PIPs (e.g. issuing warning letters, suspending the allocation of new cases and applying to the court for removal of a PIP as the liquidator or trustee). Table 8 shows a summary of the monitoring measures for the four outsourcing schemes.

Note 15: *The Bankruptcy Rules require the petitioner (i.e. the debtor of a debtor-petition case) to deposit \$8,000 with ORO at the time of petition to cover the fees and expenses of the bankruptcy proceedings.*

Table 8

Monitoring measures for outsourcing schemes

Scheme	Monitoring measures
Winding-up cases	
Panel A	<ul style="list-style-type: none"> (a) monitoring funds paid into the Companies Liquidation Account (see para. 3.20(a)); (b) checking liquidator's accounts submitted by PIPs; (c) conducting field audits of the outsourced cases (if being selected under ORO's internal criteria); and (d) following up complaints/allegations against PIPs.
Panel T	<ul style="list-style-type: none"> (a) monitoring key stages of the winding-up process such as summary procedure order; (b) monitoring funds paid into the Companies Liquidation Account; (c) checking liquidator's accounts submitted by PIPs; (d) conducting field audits of the selected outsourced cases; (e) conducting quality audits of around 5% of the outsourced cases (if necessary); and (f) following up complaints/allegations against PIPs.
Bankruptcy cases	
Debtor-petition summary bankruptcy case	<ul style="list-style-type: none"> (a) monitoring key stages of the bankruptcy process such as summary procedure order; (b) checking trustee's accounts submitted by PIPs; (c) checking the statutory required annual statement of proceedings; (d) conducting field audits of the selected outsourced cases; (e) conducting quality audits of around 5% or not less than 10% of the outsourced cases; and (f) following up complaints/allegations against PIPs.
Preliminary examination	<ul style="list-style-type: none"> (a) conducting quality checks of 5% of the outsourced cases; and (b) following up complaints/allegations against PIPs.

Source: ORO records

Need to conduct quality audits for Panel T scheme

3.4 According to the Conditions of Contract of the tenders, ORO will conduct quality audits on the cases allocated to PIPs under the Panel T scheme and debtor-petition summary bankruptcy case scheme (Note 16), as follows:

- (a) ***Panel T scheme.*** For the two latest contracts covering the period from April 2016 to March 2018 and April 2018 to March 2020, ORO will select around 5% of cases allocated for conducting quality audits; and
- (b) ***Debtor-petition summary bankruptcy case scheme.*** For the two latest contracts covering the period from January 2016 to December 2017 and January 2018 to December 2019, ORO will respectively select not less than 10% and around 5% of cases allocated for conducting quality audits.

The percentage of cases selected for conducting quality audits may be adjusted as ORO considers appropriate. When conducting a quality audit, the case officer examines the adequacy and quality of key areas of the administration work (e.g. applying for summary procedure order and realising assets) performed by the PIP.

3.5 According to ORO Circulars of June and August 2018, cases are selected for conducting quality audits on a random basis. After completing a quality audit, the responsible officer should submit a summary report to the management of ORO.

3.6 Audit noted that for the Panel T scheme, up to 31 January 2020, no quality audits had been conducted. In February and March 2020, ORO informed Audit that:

- (a) ORO had been conducting field audits on liquidator's accounts of the selected cases of the Panel T scheme. This included an inspection of PIPs'

Note 16: *In the rules of the Panel A scheme, there is no requirement to conduct quality audits on the outsourced cases. According to ORO, unlike the Panel T scheme and the debtor-petition summary bankruptcy case scheme for direct appointment of PIPs as provisional liquidator or provisional trustee (and subsequently liquidator or trustee — see para. 1.16) in place of the Official Receiver, the Panel A scheme is only an administrative scheme for nomination of PIPs to take up appointment as liquidators and their appointments as liquidators is subject to the approval of courts. PIPs, if appointed, will be monitored in the same way of other non-summary winding-up cases.*

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books, accounts and vouchers (see para. 3.23(b)). Other than field audits, ORO also had a range of measures to monitor the work of PIPs participating in the outsourcing schemes and the quality of outsourced cases, including monitoring the major status of the cases, examining the liquidator's accounts and conducting investigation into the complaints lodged against PIPs and taking actions when necessary;

- (b) the provisional liquidators were required to submit a report every six months of their appointment giving details on what had been done, what needed to be done and also an indication with reasons on whether or not the case could not be completed within one year. If the case could not be completed within one year, they had to submit a report every six months giving explanations as to why the case could not be completed. ORO had set up a bring-up system to assist the monitoring of their performance;
- (c) in the examination and field audit of a liquidator's account, apart from checking accuracy, ORO also checked if the liquidator had performed his duties according to the requirements imposed by statute and rules. When defects were identified, ORO would ask the liquidator to explain the position and take appropriate actions. If the liquidator failed to respond, ORO could apply to the court to examine the liquidator;
- (d) the liquidators had to pay monies received by them to the Companies Liquidation Account kept by ORO (see para. 3.20(a)). Requests from the liquidators to ORO for withdrawal of funds out of the Companies Liquidation Account had to be provided with supporting documents for perusal. When the liquidators have realised all the property of the companies, the liquidators should make dividend payment, if any, to creditors and apply to the court for an order of release under section 205 of C(WUMP)O; and
- (e) taking into account the measures put in place (see (a) to (d) above) and the high maturity of the Panel T scheme and the private sector in dealing with winding-up cases, no quality audit had been carried out in the past.

In order to strengthen its regulatory role and align with other outsourcing schemes, ORO had reviewed the position and would work out procedures for conducting quality audits of the cases outsourced under the Panel T scheme. The initial plan was to

implement the procedures in the forthcoming new contract covering the period from April 2020 to March 2022.

3.7 In Audit's view, timely completion of quality audits can provide assurance on the quality of PIPs' work and ensure that any unsatisfactory performance of PIPs can be identified and rectified in a timely manner. Audit notes ORO's initiative of extending the quality audits for Panel T scheme and considers that the procedures on conducting quality audits for the Panel T scheme should be implemented as soon as practicable.

Need to ensure that the target coverage of field audits on cases outsourced under Panel T scheme is met

3.8 As shown in Table 8 in paragraph 3.3, ORO staff are required to conduct field audits of the selected cases outsourced under the Panel T scheme and debtor-petition summary bankruptcy case scheme respectively.

3.9 Audit reviewed the number of field audits conducted on cases outsourced under the two schemes and noted that for the two most recently completed contracts (covering the period from April 2014 to March 2016 and April 2016 to March 2018) of the Panel T scheme, field audits had been completed on only 3.1% and 2.7% (i.e. 78% and 68% of the target coverage) of the cases outsourced under the two contracts respectively.

3.10 In response to Audit's enquiry, in February 2020, ORO informed Audit that:

- (a) the established procedure was for the Financial Services Division to select the cases for conducting field audits and inform case officers accordingly on a biannual basis;
- (b) those liquidator's accounts submitted by PIPs of the Panel T scheme and not selected for field audit would be examined by the case officers; and
- (c) ORO had already stepped up controls to improve the situation of not meeting the target coverage of field audits for the Panel T scheme by

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monitoring the status of liquidator's accounts received from case officers. In case the selected liquidator's accounts for any reason had not been submitted to the Financial Services Division, the Division would select another case for conducting field audits so as to ensure that the target coverage would be met.

In Audit's view, ORO needs to remind the Financial Services Division to take measures to ensure that the target coverage of field audits is met.

Need to issue warning letters for private insolvency practitioners' unsatisfactory performance

3.11 **Warning letters.** According to the Conditions of Contract of the tenders of the Panel T scheme, the debtor-petition summary bankruptcy case scheme and the preliminary examination scheme, ORO may issue warning letters to PIPs for their unsatisfactory performance. Examples include PIPs' failure to:

- (a) apply to the court for summary procedure order within the specified time;
- (b) provide necessary assistance and complete a questionnaire as may be required by ORO when quality audit is conducted in accordance with the tender clauses;
- (c) perform the tasks and duties as are necessary or may be required of a provisional liquidator/liquidator or a provisional trustee/trustee pursuant to the provisions of C(WUMP)O or the Bankruptcy Ordinance;
- (d) provide all relevant statistics and information and produce any documents in connection with the cases allocated as and when required by ORO in accordance with the tender clauses;
- (e) submit preliminary examination questionnaires within 7 working days of the interview with the bankrupts;
- (f) submit liquidator's accounts or trustee's accounts; and

- (g) report the conduct of the directors of the wound-up companies to ORO in accordance with the provision of C(WUMP)O.

3.12 ***Suspension of allocation of cases.*** According to ORO Circulars of February, June and August 2018, the Compliance and Regulatory Section of the Case Management Division keeps a register of all warning letters and takes follow-up actions, as follows:

- (a) ***Panel T scheme and debtor-petition summary bankruptcy case scheme.*** Suspending allocation of cases to a PIP for one month and two months when a total of 30 and 35 warning letters have been issued respectively; and
- (b) ***Preliminary examination scheme.*** Suspending allocation of cases to a PIP for one month and two months when a total of 15 and 30 warning letters have been issued respectively.

3.13 According to ORO, in the period from 2016 to 2019, no warning letters had been issued. However, Audit examination of the records centrally kept by the Compliance and Regulatory Section (see para. 3.16) revealed that in the period from 2016 to 2019, there were 8 incidents of PIPs of the preliminary examination scheme failing to submit the preliminary examination questionnaires within 7 working days of the interview with the bankrupts (see para. 3.11(e)). For the 8 incidents, warning letters could have been issued to the under-performing PIPs according to the Conditions of Contract of the tenders. In response to Audit's enquiry, ORO said in March 2020 that the PIPs had subsequently submitted the preliminary examination questionnaires within a reasonable period of time, and the issue of warning letters was not required. In Audit's view, ORO needs to keep in view the need of issuing warning letters for PIPs' unsatisfactory performance including any prolonged delay in the submission of preliminary examination questionnaires in future.

Need to make continuous improvement in monitoring performance of private insolvency practitioners

3.14 ***Making use of "warning letter system".*** In the 2012 Audit Report, Audit recommended that ORO should duly take into account PIPs' past performance in evaluating their tenders for reappointment under a new contract. In response, ORO stated that it would review the terms of future outsourcing contracts and consider the

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introduction of a marking scheme to ensure the quality of outsourced services. While ORO had enhanced the terms of outsourcing contracts commencing since 2014, Audit noted that in January 2015, in order to avoid excessive use of marking schemes and taking into consideration ORO's practical difficulties (Note 17) in introducing a marking scheme, ORO decided to make use of the "warning letter system" (see paras. 3.11 and 3.12) to assess the performance of PIPs in the outsourcing contracts commencing since 2016. Such information on PIPs' performance was used for tender evaluation for the outsourcing contracts commencing since 2018.

3.15 ***Terms of outsourcing contracts.*** In relation to the evaluation of past performance of PIPs in the outsourcing contracts commencing in 2020, Audit noted that:

- (a) for contracts which the tenderer had made with ORO for the provision of any insolvency services or work, during the period of four years prior to the new contract:
 - (i) none of such contracts was terminated by ORO; and
 - (ii) ORO had not suspended the allocation of cases or work to such tenderer under any such contracts for two months or more (see para. 3.12); and
- (b) the Official Receiver may in her absolute discretion think fit including (but not limited to) the following matters:
 - (i) whether the tenderer or any of its key personnel has been convicted of any offence;

Note 17: *The practical difficulties included: (a) the concerns about the unique circumstances of cases; (b) without the assistance of the court, it would be difficult to challenge the case administration, specify quality performance or decide whether there is total or partial compliance; (c) setting out specifically all the requirements would make the marking scheme cumbersome; and (d) the quality of performance is neither just judged by the number of cases completed nor the amount of assets realised for creditors.*

- (ii) whether the tenderer or any of its key personnel is subject to any ongoing disciplinary action or investigation by a professional body; and
- (iii) whether or not the tenderer or any of its key personnel is fit and proper to take up the contract or to provide the services.

3.16 ***Registers of unsatisfactory conduct of PIPs.*** According to ORO Circular of October 2013, for cases handled by all PIPs (appointed under the outsourcing schemes, or by the court or creditors), case officers are required to monitor the PIPs' conduct or performance in accordance with the relevant statutory and contractual requirements. Case officers should report unsatisfactory conduct or performance of PIPs in a standard form for central keeping by the Compliance and Regulatory Section. Examples of circumstances that warrant the report for central keeping are as follows:

- (a) PIPs repeatedly ignore the case officers' correspondence;
- (b) PIPs repeatedly fail to observe the terms and conditions of contracts or statutory requirements;
- (c) PIPs fail to submit liquidator's accounts or trustee's accounts despite reminders and warning; and
- (d) allegations from creditors, company directors, etc. against PIPs are substantiated.

The Circular also states that the examples of circumstances are not exhaustive and case officers have to look at the facts and circumstances of each individual case. According to ORO, the standard forms completed by case officers, together with information collected from other sources (e.g. comments on PIPs' performance made by the court), were organised into four registers of unsatisfactory conduct of PIPs (i.e. one relating to the payment of cash into the Companies Liquidation Account (see para. 3.20(a)) and one for each of the three outsourcing schemes). Those registers

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would be reviewed by the Tender Assessment Panel (Note 18) when assessing the past performance of PIPs for tender evaluation.

3.17 ***Areas for improvement.*** In January 2020, Audit reviewed the registers of unsatisfactory conduct of PIPs and noted the following room for improvement:

- (a) while a notable number of liquidator's accounts and trustee's accounts were outstanding from PIPs (see para. 3.21) as at 31 December 2019, no such information was recorded in the registers (see para. 3.16(c));
- (b) for PIPs appointed by the court or creditors, only non-compliance with the statutory requirement to pay cash into the Companies Liquidation Account would be recorded. Audit noted that two substantiated complaints (received in 2015 and 2019 and filed in the complaint registers) against one PIP appointed by creditors were not found in the registers (see para. 3.16(d)); and
- (c) 4 substantiated or partially substantiated complaints against 3 PIPs appointed under the outsourcing schemes received in the period from 2015 to 2019 and filed in the complaint registers were not recorded in the registers (see para. 3.16(d)).

As warning letters had not been issued by ORO for the unsatisfactory performance of PIPs (see para. 3.13), the registers of unsatisfactory conduct of PIPs were the only means to assess the past performance of PIPs for tender evaluation. In view of the importance of the registers of unsatisfactory conduct of PIPs, Audit considers that ORO needs to take measures to enhance the reporting and recording of unsatisfactory conduct or performance of PIPs, and ensure that the registers of unsatisfactory conduct of PIPs are maintained properly. In order to facilitate a systemic appraisal of PIPs' performance and duly take into account PIPs' past performance in tender evaluation, ORO should also make continuous improvement in monitoring the performance of PIPs.

Note 18: *The Tender Assessment Panel, comprising a Chief Insolvency Officer as the chairperson and four members, is responsible for evaluating the tenders received and making recommendations to the Departmental Tender Committee for awarding contracts.*

Audit recommendations

- 3.18 **Audit has *recommended* that the Official Receiver should:**
- (a) **implement the procedures on conducting quality audits for the Panel T scheme as soon as practicable;**
 - (b) **remind the Financial Services Division to take measures to ensure that the target coverage of field audits is met;**
 - (c) **keep in view the need of issuing warning letters for PIPs' unsatisfactory performance including any prolonged delay in the submission of preliminary examination questionnaires in future;**
 - (d) **take measures to enhance the reporting and recording of unsatisfactory conduct or performance of PIPs;**
 - (e) **ensure that the registers of unsatisfactory conduct of PIPs are maintained properly; and**
 - (f) **make continuous improvement in monitoring the performance of PIPs.**

Response from the Government

3.19 The Official Receiver agrees with the audit recommendations. She has said that ORO:

- (a) will take steps to conduct quality audits for the Panel T scheme from the next tender to be commenced from April 2020;
- (b) has already implemented measures (see para. 3.10) to ensure the target field audit coverage is met; and
- (c) will review and enhance the existing reporting and recording of unsatisfactory conduct or performance of PIPs and ensure that the registers of unsatisfactory conduct of PIPs are maintained more comprehensively and

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in a more timely manner. ORO will continue to make improvement in monitoring the performance of PIPs.

Accounts submitted by private insolvency practitioners

3.20 The accounting requirements on receipts and payments of all PIPs (appointed under the outsourcing schemes, by the court or creditors) when acting as the liquidators or trustees are laid down in C(WUMP)O and the Bankruptcy Ordinance. The requirements include:

- (a) ***Receipts and payments.*** For a winding-up case, a PIP shall pay the proceeds of realised assets and his other receipts as the liquidator into the Companies Liquidation Account kept by ORO. ORO is responsible for authorising payments to be made by the PIP out of the Companies Liquidation Account. For a bankruptcy case, a PIP shall maintain a bank account for all receipts and payments as the trustee; and
- (b) ***Accounts of receipts and payments.*** A PIP shall submit an account of his receipts and payments as the liquidator (i.e. liquidator's account) to ORO twice a year. For bankruptcy cases, ORO requires a PIP to submit an account of his receipts and payments as the trustee (i.e. trustee's account) every two years. In submitting the account, while the trustee is required to remit to ORO the ad valorem fee (Note 19), ORO may charge the ad valorem fee against the estate money in the Companies Liquidation Account for winding-up cases. ORO may cause the submitted liquidator's accounts and trustee's accounts to be audited. All accounts shall be filed with the court and made available for inspection by any interested parties upon payment of a fee.

Need to review and enhance follow-up actions taken on long overdue accounts

3.21 Audit noted that as at 31 December 2019, there were 763 liquidator's accounts and 15,355 trustee's accounts overdue but not yet submitted. Of them,

Note 19: *Ad valorem fees are levied on all insolvency cases handled by ORO or PIPs. The fees are charged at progressively reducing rates from 10% to 1% on the aggregate amount of the assets realised.*

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302 (40%) liquidator's accounts and 146 (1%) trustee's accounts had been overdue for more than five years. Tables 9 and 10 show the ageing analyses of liquidator's accounts and trustee's accounts overdue but not yet submitted as at 31 December 2019.

Table 9

**Ageing analysis of
liquidator's accounts overdue but not yet submitted
(31 December 2019)**

Overdue period (Number of years)	Accounts due from PIPs under ORO's outsourcing schemes		Accounts due from PIPs appointed by the court or creditors		Total	
	Number	%	Number	%	Number	%
≤ 1	269	39	41	64	310	40
> 1 to 3	112	16	8	12	120	16
> 3 to 5	23	3	8	12	31	4
> 5 to 10	11	2	8	12	19	3
> 10 to 15	261	37	—	—	261	34
> 15	22	3	—	—	22 (Note)	3
Total	698	100	65	100	763	100

302
(40%)

Source: Audit analysis of ORO records

Note: The overdue period for the longest outstanding liquidator's account was 17 years.

Remarks: According to ORO, accounts due for submission in the period from 1 November to 31 December 2019 were not included because those accounts were not considered overdue.

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Table 10

**Ageing analysis of
trustee's accounts overdue but not yet submitted
(31 December 2019)**

Overdue period (Number of years)	Accounts due from PIPs under ORO's outsourcing schemes		Accounts due from PIPs appointed by the court or creditors		Total	
	Number	%	Number	%	Number	%
≤1	3,472	59.6	7,392	77.6	10,864	70.7
>1 to 3	2,154	37.0	1,886	19.8	4,040	26.3
>3 to 5	187	3.2	118	1.2	305	2.0
>5 to 10	10	0.2	123	1.3	133	0.9
>10 to 15	—	—	13	0.1	13 (Note)	0.1
Total	5,823	100.0	9,532	100.0	15,355	100.0

146
(1%)

Source: Audit analysis of ORO records

Note: The overdue period for the longest outstanding trustee's account was 15 years.

Remarks: According to ORO, accounts due for submission in the period from 1 November to 31 December 2019 were not included because those accounts were not considered overdue.

3.22 In the 2012 Audit Report, Audit recommended that ORO should strengthen the monitoring of submission of accounts by PIPs. In response, ORO informed Audit that it had enhanced the guidelines on procedures to take follow-up actions against PIPs with unexplained consistent default in submitting accounts, including reporting the matter to the court and termination of contract in cases of serious default. However, Audit noted that besides issuing reminder letters, no other follow-up actions had been taken by ORO. Submission of accounts by liquidators and trustees are statutory requirements stipulated in C(WUMP)O and the Bankruptcy Ordinance. Late

submission of accounts to ORO may also lead to delay in remitting ad valorem fees to ORO (see para. 3.20(b)). Audit considers that ORO needs to review and enhance its follow-up actions taken on long overdue accounts from PIPs.

Need to improve examination/checking of accounts

3.23 ORO has laid down requirements on the checking of the liquidator's and trustee's accounts submitted by PIPs:

- (a) ***Examination/checking.*** All accounts are subject to an examination of content and accuracy by the Financial Services Division/Case Management Division or a cursory checking by the Case Management Division; and
- (b) ***Field audit.*** The Financial Services Division carries out field audits of selected accounts to inspect the PIPs' books, accounts and vouchers.

3.24 For examination/checking of accounts by the Financial Services Division and/or Case Management Division, Audit noted that as at 31 December 2019, 30,972 accounts had been received but not yet examined/checked. Of these 30,972 accounts, 843 (2.7%) accounts had been received for more than five years (see Table 11).

Table 11

**Ageing analysis of accounts not yet examined/checked
(31 December 2019)**

Outstanding period (Note 1) (Number of years)	Number of liquidator's accounts (a)	Number of trustee's accounts (b)	Total (c) = (a) + (b)
≤ 1	1,333	11,197	12,530 (40.5 %)
> 1 to 2	746	7,784	8,530 (27.5 %)
> 2 to 3	229	5,983	6,212 (20.1 %)
> 3 to 5	28	2,829	2,857 (9.2 %)
> 5 to 10	24	763	787 (2.5 %)
> 10 to 15	18	38	56 (0.2 %) (Note 2)
Total	2,378	28,594	30,972 (100.0 %)

843
(2.7 %)

Source: Audit analysis of ORO records

Note 1: The period is counted from the date of receipt of the account.

Note 2: The account with the longest outstanding period was received 15 years ago.

3.25 In response to Audit's enquiry, in March 2020, ORO said that:

- (a) it had already noted the issue and considered that it was unsustainable to check all accounts submitted by PIPs considering the numbers; and
- (b) in March 2019, ORO implemented a new risk-based approach in checking the accounts submitted in summary cases. ORO planned to review such approach and its cost effectiveness one year after implementation. ORO would consider the current mechanism for examination/checking after review of the risk-based checking mechanism and its effectiveness.

Audit considers that ORO needs to review and enhance its current procedures on the examination/checking of accounts from PIPs.

Audit recommendations

3.26 **Audit has *recommended* that the Official Receiver should review and enhance:**

- (a) **the follow-up actions taken on long overdue accounts from PIPs; and**
- (b) **the current procedures on the examination/checking of accounts from PIPs.**

Response from the Government

3.27 The Official Receiver agrees with the audit recommendations. She has said that ORO will consider the current mechanism for handling of accounts from PIPs after review of the risk-based checking mechanism and its effectiveness.

PART 4: WAY FORWARD

4.1 This PART examines the way forward on the insolvency management, focusing on:

- (a) modernisation of insolvency provisions (paras. 4.2 to 4.13);
- (b) alternative to personal bankruptcy (paras. 4.14 to 4.23);
- (c) deployment of manpower of ORO (paras. 4.24 to 4.29); and
- (d) review of fees structure of ORO (paras. 4.30 to 4.37).

Modernisation of insolvency provisions

4.2 The insolvency provisions in Hong Kong are largely based on the United Kingdom regime. In order to modernise the local insolvency provisions, in October 1996 and July 1999, LRC made a number of recommendations to update the local insolvency provisions, taking into account international practices. However, after a long lapse of time, two significant proposals have not yet been implemented, namely:

- (a) the statutory corporate rescue procedure and insolvent trading provisions (see para. 1.19); and
- (b) cross-border insolvency (see para. 1.20).

***Need to introduce the bill
on corporate rescue procedure and insolvent trading provisions
into Legislative Council in a timely manner***

4.3 ***Purpose of corporate rescue procedure.*** According to the 1996 Report of LRC:

- (a) it is better for a viable business to survive as a going concern, in whole or in part, than for it to be simply wound up and such assets as remain distributed. It benefits:
 - (i) the company's shareholders, as if the company survives, their share holdings might become valuable, whereas if a company is insolvent and wound up they get nothing; and
 - (ii) the ordinary creditors of the company if they obtain more from a company reorganisation than from a dividend in a winding up, with the added benefit that they would keep a customer; and
- (b) it has become increasingly clear that secured creditors, usually banks, must look beyond the notion that being secured means that they are not affected by the winding up of a client company. Employment that would otherwise disappear would be preserved, at least to some extent. All of this has implications for Government both in revenue and social terms.

4.4 *Purpose of insolvent trading provisions.* According to the 1996 Report of LRC:

- (a) the purpose of an insolvent trading provision would be to encourage responsible persons to face the fact that a company was slipping into insolvency at an early date and cause them to address the situation rather than to trade on regardless of the consequences. Insolvent trading should raise the awareness of responsible persons of their duty to creditors rather than just having regard to the interests of the shareholders; and
- (b) responsible persons who paid attention to their business, and who took appropriate action when faced with insolvency, should never face an application in respect of insolvent trading, whereas those who did not would be vulnerable.

4.5 Two bills on corporate rescue procedure and insolvent trading provisions, first as a bill containing provisions on corporate rescue and insolvent trading in 2000, and second as a standalone bill in 2001, had been introduced into the Legislative Council (LegCo). However, due to the complexity of the legislative proposals and

Way forward

the diverse views of the stakeholders, the relevant provisions or the bill were not enacted. In January 2009, in response to the recommendations made by the Task Force on Economic Challenges (Note 20), the Government agreed to re-consider the introduction of a corporate rescue procedure to facilitate companies with viable long-term business but in short term financial difficulties to restructure. Since 2009, FSTB and ORO had conducted various rounds of consultation exercises and studies and started the preparation work and the initial drafting of the draft drafting instructions for the legislative exercise of a corporate rescue procedure and provisions on insolvent trading in mid-2010. In May 2014, FSTB announced the detailed proposals of the legislative initiative for introducing a statutory corporate rescue procedure and insolvent trading provisions.

4.6 In October 2015, when introducing the Companies (Winding Up and Miscellaneous Provisions) (Amendment) Bill 2015 into LegCo to amend C(WUMP)O and its subsidiary legislation (Note 21), FSTB stated in the LegCo Brief that detailed proposals to introduce a new statutory corporate rescue procedure and insolvent trading provisions were being developed in parallel and having regard to the scale of the exercise and the complexity of the issues involved, the target was to introduce the relevant bill into LegCo in 2017/18. Up to January 2020, the relevant bill had not yet been introduced into LegCo. In response to Audit's enquiry, in December 2019, ORO informed Audit that:

- (a) a longer time than expected was taken on the legislative process given the complexity of the subjects and consultation on a wide spectrum of stakeholders; and
- (b) having reviewed the legislative calendar and noting the complexity of the bill, FSTB proposed to conduct a further round of selective stakeholder engagement (involving practitioners, professional bodies, chambers of

Note 20: *The Task Force on Economic Challenges was established in response to the global financial tsunami in 2007-08. Chaired by the Chief Executive of the Hong Kong Special Administrative Region, the Task Force comprised nine individuals from different sectors (e.g. banking sector and accounting sector) as members. The last meeting of the Task Force was held in June 2009.*

Note 21: *The Bill introduced amendments to increase protection of creditors, streamline the winding-up process, strengthen regulation under the winding-up regime and make related, consequential and minor technical amendments.*

commerce, labour unions, etc.). It was planned to introduce the bill into LegCo after the 2020 summer recess.

There has been a long lapse of time (i.e. over 23 years) since the recommendation of LRC was made in October 1996. Audit considers that FSTB should, in collaboration with ORO, take action to introduce the bill on corporate rescue procedure and insolvent trading provisions into LegCo in a timely manner.

***Need to sustain efforts in taking forward
the domestic cross-border insolvency legislation and
conduct public consultation as appropriate***

4.7 A large proportion of companies listed in Hong Kong were registered abroad and a large and growing number of other companies, both private and public, were also registered outside Hong Kong. As mentioned in paragraph 1.20, in July 1999, LRC in its report made various recommendations in relation to the winding-up provisions in the then Companies Ordinance, including the introduction of provisions relating to the area of cross-border insolvency. As stated in the report, the treatment of cross-border insolvency was important in Hong Kong because of its status as an international business and financial centre.

4.8 According to ORO:

- (a) it is increasingly common for corporate insolvency in Hong Kong to involve cross-border insolvency issues. Liquidators may be appointed in different jurisdictions with different insolvency regimes. It is important to ensure fair and equality of treatment, insofar as it is possible, for all worldwide creditors. Otherwise, there may be a disorderly race for assets in different jurisdictions and thus resulting in preferential treatment for local creditors. Mutual recognition of foreign liquidators by the courts and provisions for court assistance to foreign liquidators among different jurisdictions is important;
- (b) the courts in Hong Kong have resorted to the common law principles of comity to assist foreign liquidators in various situations. However, assistance will only be granted by the courts if:

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- (i) the assistance is requested by a liquidator appointed in a jurisdiction that has similar substantive insolvency law to Hong Kong (Note 22); and
 - (ii) the courts may under the law of Hong Kong make an order of the type of assistance sought by the foreign liquidator; and
- (c) in drafting the domestic legislation on cross-border insolvency, reference has been made to the Model Law on Cross-Border Insolvency of the United Nations Commission on International Trade Law (Note 23) (hereinafter referred to as the UNCITRAL Model Law), which was a leading international standard. More than 40 jurisdictions (e.g. the United States (since 2005) and Singapore (since 2017)) had adopted the UNCITRAL Model Law. The text of the UNCITRAL Model Law focuses on four key elements, namely:
- (i) access to local courts for representatives of foreign insolvency proceedings and creditors, and authorisation for local insolvency representatives to seek assistance elsewhere;
 - (ii) recognition of certain orders issued by foreign courts;
 - (iii) relief to assist foreign proceedings; and
 - (iv) cooperation among the courts of States where the debtor's assets are located and coordination of concurrent proceedings.

Note 22: *According to ORO, there has been recent development of the case law such that the court is, in an appropriate case, prepared to extend the scope of granting assistance and recognition to the liquidators not from the common law jurisdictions. The principle emerged from recent cases is that the court may recognise foreign insolvency proceedings opened in a civil law jurisdiction if it is satisfied that the foreign proceedings are collective insolvency proceedings and are opened in the company's place of incorporation.*

Note 23: *Established in 1966, the United Nations Commission on International Trade Law is the core legal body of the United Nations system in the field of international trade law. It has universal membership specialising in commercial law reform worldwide and its business is the modernisation and harmonisation of rules on international business.*

4.9 Audit noted that, from 1999 to 2015, there was no substantial progress in taking forward LRC's recommendation on the introduction of provisions relating to cross-border insolvency. According to ORO, as noted in the LRC Report of July 1999, the UNCITRAL Model Law had not yet been adopted by any jurisdiction and progress on adoption of the law by other jurisdictions was kept under regular review by FSTB and ORO, and the issue was discussed by the Standing Committee on Company Law Reform (Note 24) for a number of times. Priority has also been given to the legislative exercises of amending C(WUMP)O and introducing the new statutory corporate rescue procedure and insolvent trading provisions in recent years. In 2016, ORO commissioned a senior counsel to assess the advantages and disadvantages of introducing domestic cross-border insolvency legislation to Hong Kong in two forms, including the adoption of the UNCITRAL Model Law. In December 2016, the senior counsel concluded that the UNCITRAL Model Law was the preferred way for Hong Kong to address concerns on cross-border insolvency.

4.10 In June 2019, FSTB and ORO commissioned another senior counsel to conduct a consultancy study, including recommending the necessary modifications in adopting the UNCITRAL Model Law for domestic cross-border insolvency legislation with regard to local circumstances and preparing a draft UNCITRAL Model Law with relevant modifications for use in Hong Kong for the purpose of a public consultation exercise.

4.11 According to ORO, in order to provide certainty and align Hong Kong with other major jurisdictions, there has been a strong voice from the insolvency profession and from the court, calling for adoption of specific domestic legislation to deal with cross-border insolvency issues. Audit notes that the cross-border insolvency matter is a complex subject requiring a careful and comprehensive deliberation. Audit considers that FSTB and ORO should continue to consider how to take forward the domestic cross-border insolvency legislation and conduct public consultation as appropriate.

Note 24: *Set up in 1984, the Standing Committee on Company Law Reform advises the Financial Secretary on, among others, amendments to the Companies Ordinance and C(WUMP)O, as and when necessary.*

Audit recommendations

4.12 **Audit has *recommended* that the Secretary for Financial Services and the Treasury should, in collaboration with the Official Receiver:**

- (a) **take action to introduce the bill on corporate rescue procedure and insolvent trading provisions into LegCo in a timely manner; and**
- (b) **continue to consider how to take forward the domestic cross-border insolvency legislation and conduct public consultation as appropriate.**

Response from the Government

4.13 The Secretary for Financial Services and the Treasury and the Official Receiver agree with the audit recommendations. They have said that:

- (a) the drafting of the bill has reached an advance stage. The Government will further engage various stakeholders on specific areas of the draft bill with a view to finalising the bill for introduction into LegCo in the first half of the 2020-21 legislative session; and
- (b) FSTB and ORO will consider taking forward the domestic cross-border insolvency legislation on the basis of the UNCITRAL Model Law.

Alternative to personal bankruptcy

4.14 ***Advantages of IVA.*** Similar to the proposed corporate rescue procedure for corporate insolvency, the Bankruptcy Ordinance provides for an IVA as an alternative to bankruptcy since April 1998. Under an IVA, a debtor makes a repayment proposal to the creditors. If the repayment proposal is approved, it will legally bind all the creditors. According to ORO, the advantages of an IVA are:

- (a) ***Debtors.*** Debtors:
 - (i) can avoid the stigma of bankruptcy;

- (ii) will be free from the legal restrictions provided for under the Bankruptcy Ordinance and other ordinances; and
 - (iii) may be able to retain their jobs or professions; and
- (b) **Creditors.** As compared with bankruptcy, creditors may expect better repayment from debtors as the latter would have more incentive to make repayment.

4.15 **Nominee.** As required by the Bankruptcy Ordinance, a debtor must find a person who is prepared to act as a nominee (Note 25). That person should, in the opinion of the court, have suitable experience and qualifications to perform duties as nominee. Usually an accountant or a solicitor may be appointed to act as a nominee in an IVA case.

4.16 **Register of IVA.** Under the Bankruptcy Rules (Cap. 6A) of the Bankruptcy Ordinance, ORO shall maintain a register of IVA for public inspection. ORO shall enter into the register various matters. Examples include the name, Hong Kong identity card number and address of the debtor, the date of the creditors' meeting during which the IVA was approved, and the name and address of the nominee.

4.17 **Completion of IVA cases.** Up to 31 December 2019, 13,236 approved IVA cases have been completed (i.e. the repayment proposals approved by the creditors have been fully implemented by the debtors). Audit analysed the time taken to complete those 13,236 approved IVA cases and found that most of the cases (i.e. 9,366 (71%)) took more than four to eight years for completion (see Table 12). According to ORO:

- (a) regarding IVA cases, the IVA proposal in each approved IVA case was approved by the creditors in the creditors' meeting. When the creditors approved the IVA proposal, they should have already taken into consideration of the length of time for the completion of all the agreed repayments;

Note 25: *The Official Receiver has ceased to accept nomination as nominee since September 2002.*

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- (b) to make the IVA repayment proposal more attractive than repayment under bankruptcy, the debtor/bankrupt would normally either offer a longer repayment period than the 4-year bankruptcy period or offer a larger sum of repayment to the creditors than under bankruptcy (i.e. repayment from outside his own assets). Hence it is not surprising to find that the repayment period in most IVA cases was longer than 4 to 8 years; and
- (c) during the course of the implementation of IVA, the nominee should have also reported to the creditors frequently on the progress of the implementation of the IVA repayment proposal. If the creditors agreed, the IVA proposal can take whatever length of time to complete.

Table 12

**Time taken to complete approved IVA cases
(31 December 2019)**

Years elapsed from the date of entering into the register of IVA	Number of cases
0 to 1	193 (1 %)
> 1 to 2	312 (2 %)
> 2 to 4	2,741 (21 %)
> 4 to 8	9,366 (71 %)
> 8	624 (5 %) (Note 1)
Total	13,236 (100 %) (Note 2)

Source: Audit analysis of ORO records

Note 1: For the IVA case that took the longest time for completion, the time taken was 15 years.

Note 2: One IVA case without the date of completion recorded and 18 IVA cases with recorded completion dates earlier than the dates of entering into the register of IVA were excluded.

Low usage of individual voluntary arrangements

4.18 Despite the advantages of IVAs (see para. 4.14), Audit analysis of the usage of IVAs as a percentage of total bankruptcy and IVA cases in the period from 2014 to 2018 revealed that the usage of IVAs was low, ranging from 6% to 8% (see Table 13).

Table 13

**Number of IVA and bankruptcy cases
(2014 to 2018)**

Year	Number of cases		
	IVA (a)	Bankruptcy (b)	Total (c) = (a) + (b)
2014	782 (7%)	9,674 (93%)	10,456 (100%)
2015	684 (7%)	9,750 (93%)	10,434 (100%)
2016	589 (6%)	8,919 (94%)	9,508 (100%)
2017	598 (7%)	7,627 (93%)	8,225 (100%)
2018	599 (8%)	7,146 (92%)	7,745 (100%)

Source: Audit analysis of ORO records

4.19 While the usage of IVAs in Hong Kong was low, Audit noted that in England and Wales of the United Kingdom, the usage of IVAs was higher and on an increasing trend. The usage of IVAs as a percentage of total individual insolvencies in England and Wales increased by 9 percentage points from 53% in 2014 to 62% in 2018 (ranging from 50% to 62% in the period).

Way forward

4.20 According to ORO:

- (a) the United Kingdom, England and Scotland have additional debt relief products for those in financial distress which do not involve bankruptcy (e.g. Debt Relief Orders in England for debts up to 20,000 British Pound Sterling which is a purely administrative online application process to relieve debtors of certain types of consumer debt). The profile of their bankrupts is likely to be quite different from those in Hong Kong, and they are likely to be more sophisticated business failures;
- (b) considering the profile of bankrupts (see Table 1 in para. 1.9) in Hong Kong, the majority of bankrupts are unemployed, older people. The socio-economic background of bankruptcy/insolvency in Hong Kong is different from other jurisdictions and it is difficult or may not be appropriate to have a direct comparison between them. For example, the termination rate of IVAs in the United Kingdom is generally observed higher than that of Hong Kong. A direct comparison to their IVA market may not be very useful;
- (c) no study had been conducted to ascertain the reasons why the use of IVAs had not been common amongst debtors since the introduction of the regime in 1998;
- (d) ORO had discussed the issues with stakeholders at the Services Advisory Committee (Note 26) from time to time and the view from the industry is that IVA is more expensive, lasts longer and is less attractive to bankrupts for whom a change in status has no practical effect. Considering the profile of bankrupts (see Table 1 in para. 1.9), 87% have either no income or income below \$20,000 and as such, an IVA is unlikely to be attractive to such types of people. Given that 92% of bankruptcy cases are

Note 26: *Established in June 1994, the Services Advisory Committee is a customer liaison group comprising representatives from service users and PIPs. The Committee meets quarterly and helps monitor ORO's service quality and standards. Its terms of reference are to: (a) monitor the published performance pledge of ORO; (b) exchange views on policy and operational matters, having regard to service levels and procedures, with the aim of enhancing efficiency and improving services of ORO; (c) provide opinions and feedback to ORO on its performance and its services and improve ORO's understanding of customer's needs and problems; and (d) improve customer's understanding of ORO's policies, services, practices and procedures.*

debtor-petition cases, it may not be surprising that IVA is not attractive to them;

- (e) as the law only requires the nominees to report to ORO the approved IVA cases, there was no information on the number of IVA cases rejected by creditors;
- (f) to make his IVA proposal more attractive to his creditors, a debtor has to put forward a repayment proposal with repayment amounts more than that will be received by his creditors under the bankruptcy regime (e.g. repayment period longer than the normal bankruptcy period of four years). In other words, if a debtor does not mind being adjudged bankrupt (e.g. a debtor who does not have sufficient fund to make repayment to his creditors after deducting his reasonable expenses from his salary), he will not put forward an IVA proposal to his creditors;
- (g) those debtors who used IVAs were believed to be those who did not want or could not afford to become a bankrupt, maybe due to their concern about reputation or the loss of ability to practise in a profession if they are made bankrupt; and
- (h) ORO had all along been promoting the use of IVAs amongst debtors/bankrupts through the following means:
 - (i) the posters in ORO's public area;
 - (ii) the publication of the Simple Guide on IVA (both pamphlets and on ORO website);
 - (iii) in the Simple Guide on Bankruptcy (both pamphlets and on ORO website), the use of IVA as an alternative to bankruptcy was also mentioned; and
 - (iv) in the preliminary examination questionnaire to be completed by bankrupts, there was a question asking the bankrupt to consider using IVA.

Way forward

A debtor also has to declare in a statutory form whether he has tried to come to any agreement with his creditors and whether he will be able to introduce an IVA for his creditors.

4.21 With a view to enhancing the usage of IVA in Hong Kong, Audit considers that ORO needs to further explore with stakeholders (e.g. the Services Advisory Committee) to determine what additional measures (e.g. enhancing publicity of IVAs) can be introduced to facilitate the use of IVAs in Hong Kong.

Audit recommendation

4.22 **Audit has *recommended* that the Official Receiver should further explore with stakeholders to determine what additional measures can be introduced to facilitate the use of IVAs in Hong Kong.**

Response from the Government

4.23 The Official Receiver agrees with the audit recommendation. She has said that ORO will continue to explore with stakeholders additional measures that may be taken to facilitate the use of IVAs in Hong Kong.

Deployment of manpower of Official Receiver's Office

4.24 Since 1996 and 2001, ORO had contracted out the non-summary winding-up cases and summary winding-up cases to PIPs respectively. In line with the recommendation of the 2002 consultancy study (see para. 1.3) that the outsourcing policy of ORO should be continued and in order to handle the increased workload, since 2008, ORO had also contracted out about 25% of the debtor-petition summary bankruptcy cases to PIPs. In the 2012 Audit Report, Audit recommended that ORO should review ORO's resource deployment to ensure that any staff savings as a result of outsourcing casework were redeployed for strengthening its regulatory function. In response, the Official Receiver said that there had been a steady shift of ORO to a regulatory role with more outsourcing of cases, and ORO would establish a dedicated regulatory and compliance section to monitor PIPs' performance. In this connection, a new section under the Case Management Division was established, namely the

Compliance and Regulatory Section (see para. 3.12) in June 2012 for monitoring PIPs' performance. As of October 2019, the Compliance and Regulatory Section had 18 staff.

Need to conduct a strategic review on future manpower deployment

4.25 Over the years, while there had been more outsourcing of cases and the number of insolvency cases had generally been on a decreasing trend (see Figure 1 in para. 1.11 and Figure 3 in para. 1.15), Audit noted that no staff savings had been achieved by ORO and the establishment of ORO had increased by 49 (22%) from 224 as at 31 March 2010 to 273 as at 31 March 2019. According to ORO:

- (a) while the total number of new insolvency cases each year has been decreasing, the workload of ORO has not declined in line with the number of new insolvency cases during the same period. The number of new insolvency cases each year do not reflect the workload of ORO for that year because effectively in all circumstances, an insolvency case will not be completed within one year;
- (b) under the Bankruptcy Ordinance, a first-time bankrupt can be automatically discharged from bankruptcy four years after his bankruptcy order takes effect, unless the court orders that the bankruptcy period be extended to a maximum of another four years on the application of his trustee or creditors who make a valid objection. Hence, the length of the bankruptcy period in a case is normally four to eight years under the regime. During the bankruptcy period, the Official Receiver as the trustee is required to administer a bankruptcy case, including monitoring submission of a report of earnings and acquisitions during the preceding year by the bankrupt on each anniversary of the making of the bankruptcy order, investigating and taking appropriate action on any after-acquired property identified, reviewing cases for discharge, raising objection to discharge in appropriate cases, etc. A lot of work is required throughout the bankruptcy period. Furthermore, many of the issues involved in the case administration may be legally complicated, and realisation and investigation into various matters may span a number of years even after the discharge of the bankrupt. Those cases that cannot be finalised quickly generally have complicated issues to resolve;

Way forward

- (c) despite the huge rise in the number of bankruptcy and winding-up cases since 1998, the number of staff of ORO remained quite stable and are not so different to that during those years before the surge of the bankruptcy orders from 1998 which have reached its peak in 2002 and 2003. Furthermore, in 2016, the Bankruptcy Ordinance and C(WUMP)O have been amended to introduce a non-commencement regime and a disclosure statement requirement respectively. This has created additional work burden in the case management work. Moreover, there is an obvious trend that the number of annulment cases has increased substantially in recent years. All of these new and/or increased workload have created heavy work burden to the case administration and other support work;
- (d) there is a significant backlog of cases from the previous years where the numbers were extraordinarily high and which ORO has been working diligently to tackle via various means. For example, ORO has regularly reviewed and identified cases with assets/funds in the Bankruptcy Account which have outstanding issues to be resolved, set up the Case Administration Meeting to methodically review the long outstanding cases with a view to developing a strategy that can be rolled out across the department and giving guidance to Insolvency Officers to conclude those cases with difficult issues to be resolved. The aim is to develop de-minimas thresholds for various outstanding matters so that Insolvency Officers can take more robust steps to put the case on the release programme;
- (e) the bulk of insolvency cases (mainly bankruptcy cases) were taken up by ORO (see Table 14). ORO is also required to monitor the work of PIPs in handling their cases, and deploy resources to regulatory work in this connection. The workload of ORO is expected to increase in the coming period (see remarks in Figure 1 in para. 1.11); and
- (f) in parallel with the workload issues, ORO has also faced the issue of increased rate of natural wastage and probationary staff, especially for the Insolvency Officer grade in the past few years. In the period from 2016-17 to 2018-19, ratio of the vacancies in the promotional Insolvency Officer ranks and percentage of probationers in the rank of Insolvency Officer II increased. For example, the percentage of probationary Insolvency Officer II increased from 35.5% in March 2017 to 52.5% in March 2019. To deal with the issue, apart from the standard training of the Civil Service Training and Development Institute and the in-house tailor-made induction course for the probationary Insolvency Officers, ORO has arranged senior

Insolvency Officers and Legal Officers to deliver regular experience sharing sessions to the junior Insolvency Officers. Insolvency Officers of various levels are also nominated to attend appropriate external training on insolvency (e.g. seminars on specific insolvency-related subject and professional diploma course in insolvency organised by the Hong Kong Institute of Certified Public Accountants).

Table 14

**Number of insolvency cases administered by ORO and PIPs
(2008 to 2019)**

Year	Number of insolvency cases administered by ORO	Number of insolvency cases administered by PIPs
2008	8,572	2,675
2009	12,743	3,987
2010	4,643	4,958
2011	4,115	4,199
2012	5,019	3,471
2013	5,534	4,111
2014	4,899	5,046
2015	4,361	5,694
2016	4,842	5,402
2017	3,239	4,684
2018	3,382	4,019
2019	4,230	3,777
Total	65,579	52,023

Source: Audit analysis of ORO records

Remarks: The bulk of cases administered by ORO are bankruptcy cases.

Way forward

4.26 In Audit's view, to meet future challenge, ORO needs to conduct a strategic review on future manpower deployment, having regard to the increased regulatory role, the progress of clearing backlog cases and the anticipated increase of insolvency caseload in the coming period.

4.27 *Use of information technology.* With a view to further enhancing its efficiency in handling the increasing workload and mapping out the short to medium term information technology strategy and development plan to support its business operation in a systematic and strategic manner, ORO commenced a Departmental Information Technology Plan Study in 2018. The Study proposed to implement 22 information technology projects in the coming five years with a view to:

- (a) improving the work flow and business operation of ORO (e.g. introducing an electronic submission system for insolvency (i.e. a portal for public to submit documents to ORO and for ORO to send documents to relevant parties), electronic workflow system for internal users in different aspects of case management work);
- (b) fulfilling the information technology needs of ORO users in performing their daily operation (e.g. installation of e-fax, voice-to-text software, etc.);
- (c) replacing some de-support hardware and software (e.g. upgrade of the e-Services and e-leave systems, etc.); and
- (d) achieving various government-wide initiatives (e.g. revamp of ORO website, e-form application, implementation of Electronic Record Keeping System, etc.).

Audit notes that the implementation of information technology projects would enhance the productivity of ORO. In Audit's view, ORO should conduct a cost-and-benefit analysis in planning the implementation of the information technology projects.

Audit recommendations

4.28 **Audit has recommended that the Official Receiver should:**

- (a) **conduct a strategic review on future manpower deployment, having regard to the increased regulatory role, the progress of clearing backlog cases and the anticipated increase of insolvency caseload in the coming period; and**
- (b) **conduct a cost-and-benefit analysis in planning the implementation of the information technology projects.**

Response from the Government

4.29 The Official Receiver agrees with the audit recommendations. She has said that:

- (a) ORO will conduct a strategic review on future manpower deployment, having regard to the increased regulatory role, the progress of clearing backlog cases and the anticipated increase of insolvency caseload in the coming period; and
- (b) cost-and-benefit analysis is and will be conducted in planning and implementation of the information technology projects in accordance with the prevailing guidelines of the Government and the Office of the Government Chief Information Officer.

Review of fees structure of Official Receiver's Office

4.30 ***Global costing approach.*** According to Financial Circular No. 6/2016, it is Government's policy that fees charged by the Government should in general be set at levels adequate to recover the full cost of providing the goods or services. The Government's policy consideration of bankruptcy and winding-up fees and charges is for recovering the total costs for services of ORO as far as possible, so as to avoid using public money to fund the expenses incurred in the administration of insolvency cases. In order to achieve full-cost recovery, it has been ORO's long established practice to adopt the global costing approach for achieving full cost recovery on an overall basis. That means the fees charged in some insolvency cases will be higher than the actual costs incurred to defray the costs of administering other cases where there are no or inadequate assets to cover costs. According to ORO:

Way forward

- (a) the Bankruptcy Ordinance and C(WUMP)O provide that the amount of any fees prescribed therein shall not be limited by reference to the amount of administrative or other costs incurred in any particular case. Therefore, ORO has the statutory backing of recovering costs generally (i.e. globally) without reference to the administrative or other costs incurred in any particular case; and
- (b) due to the intricacies and interdependence of the insolvency services, it is impracticable for ORO to carry out separate costing for these services and ensure that their fee levels can attain full cost recovery individually.

4.31 **Statutory fees.** The statutory fees payable to ORO in relation to its administration of bankruptcy and winding-up cases are set out in the Bankruptcy Rules, the Bankruptcy (Fees and Percentages) Order (Cap. 6C), the Companies (Fees and Percentages) Order (Cap. 32C) and the Companies (Winding-up) Rules. The main types of statutory fees include:

- (a) ad valorem fees levied on all insolvency cases handled by ORO or PIPs. The fees are charged at progressively reducing rates from 10% to 1% on the aggregate amount of the assets realised;
- (b) a minimum fee of \$11,250 for both bankruptcy and winding-up cases where the Official Receiver acts as trustee or liquidator; and
- (c) realisation fees at fixed rate of \$170 and distribution fees of 5% of dividends distributed for cases handled by ORO.

4.32 **Interest income.** ORO also earns interest income from investing monies of the insolvent estates with the banks. C(WUMP)O and the Bankruptcy Ordinance provide that for company liquidation estates not exceeding \$100,000 and all bankruptcy estates, all interest earned is transferred to the general revenue annually. For company liquidation estates exceeding \$100,000, an amount up to 1.5% per annum of the monies is collected by ORO.

Need to minimise the impact of fluctuating cost recovery rates on fee charging

4.33 In the 2012 Audit Report, Audit noted that there had been a consistent over-recovery by ORO by a considerable margin and recommended ORO to expedite action on its fees and charges review with a view to rationalising the fee levels as soon as possible. In response, ORO completed the fees and charges review and the relevant amendment rules and orders on fees and charges were effective from November 2013. However, Audit noted that after the fee revision in 2013, ORO's cost recovery rates had fluctuated notably (ranging from 97 % to 326 %) and could meet the full-cost target (i.e. from 95 % to 105 %) only in 2013-14, 2016-17 and 2018-19 (see Table 15).

Table 15

**ORO's cost recovery rates
(2013-14 to 2018-19)**

Year	Cost recovery rate
2013-14	104 %
2014-15	161 %
2015-16	326 % (Note)
2016-17	97 %
2017-18	143 %
2018-19	97 %

Source: ORO records

Note: According to ORO, the high cost recovery rate in 2015-16 was mainly due to the exceptional income (e.g. minimum fees) generated from clearance of backlog.

4.34 Audit noted that in August 2018, ORO completed a preliminary review comparing the fees structures of ORO and insolvency authorities in other jurisdictions (e.g. the United Kingdom) with a view to considering possible options available for FSTB's consideration. According to ORO:

Way forward

- (a) it has conducted the annual review of ORO's statutory fees and charges in accordance with Financial Circular No. 6/2016. The latest review was submitted to FSTB in January 2019;
- (b) regarding the global costing approach adopted by ORO:
 - (i) given that the number of insolvency cases for each financial year and the related revenue thereon may vary considerably from one year to another due to uncontrollable factors (e.g. economic situations, behaviour of concerned parties and market segment performance), it is difficult to make any meaningful estimates or projection of the number of insolvency cases in a particular year. Historical figures indicate that the number of insolvency cases each year will fluctuate from around 9,000 in one year to around 26,000 in a recession year (e.g. the outbreak of Severe Acute Respiratory Syndrome in 2003);
 - (ii) besides the number of insolvency cases, there is also a great variation in the amount of realisable assets for insolvency cases. For instance, there are cases with no assets realised and cases with millions of assets realised (although occasionally);
 - (iii) for the interest income, the proportion of interest income over the total income was volatile (ranging from 12% to 38% in the period from 2014-15 to 2018-19) and ORO had little control/influence over the amount of insolvent estate which can be invested; and
 - (iv) for ORO's recurrent expenditure, it is envisaged that ORO requires to have a minimum funding of about \$220 million to achieve full cost recovery commencing from 2019-20. ORO's expenditure will normally be on an increasing trend due to creation of new posts, inflation and other price changes; and
- (c) it is considering the merits of introducing a "rolling average"/"weighted average" cost recovery rate. While the effect of "rolling average" model with the time frame of 5 and 10 years has been studied, ORO is reviewing other financial models (e.g. the "weighted average" model).

4.35 Up to January 2020, ORO had not completed the review of its fees structure. Audit considers that ORO needs to explore measures to minimise the impact of the fluctuating cost recovery rates on fee charging.

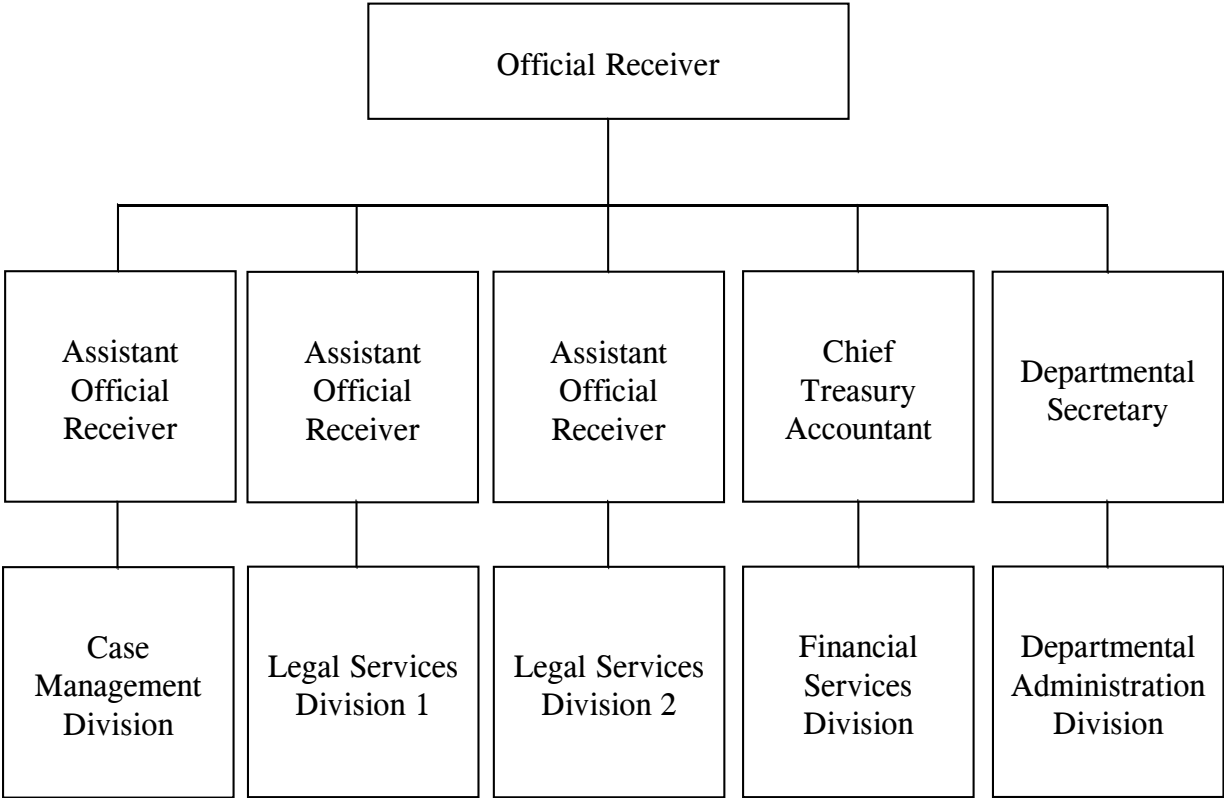
Audit recommendation

4.36 Audit has *recommended* that the Official Receiver should explore measures to minimise the impact of the fluctuating cost recovery rates on fee charging.

Response from the Government

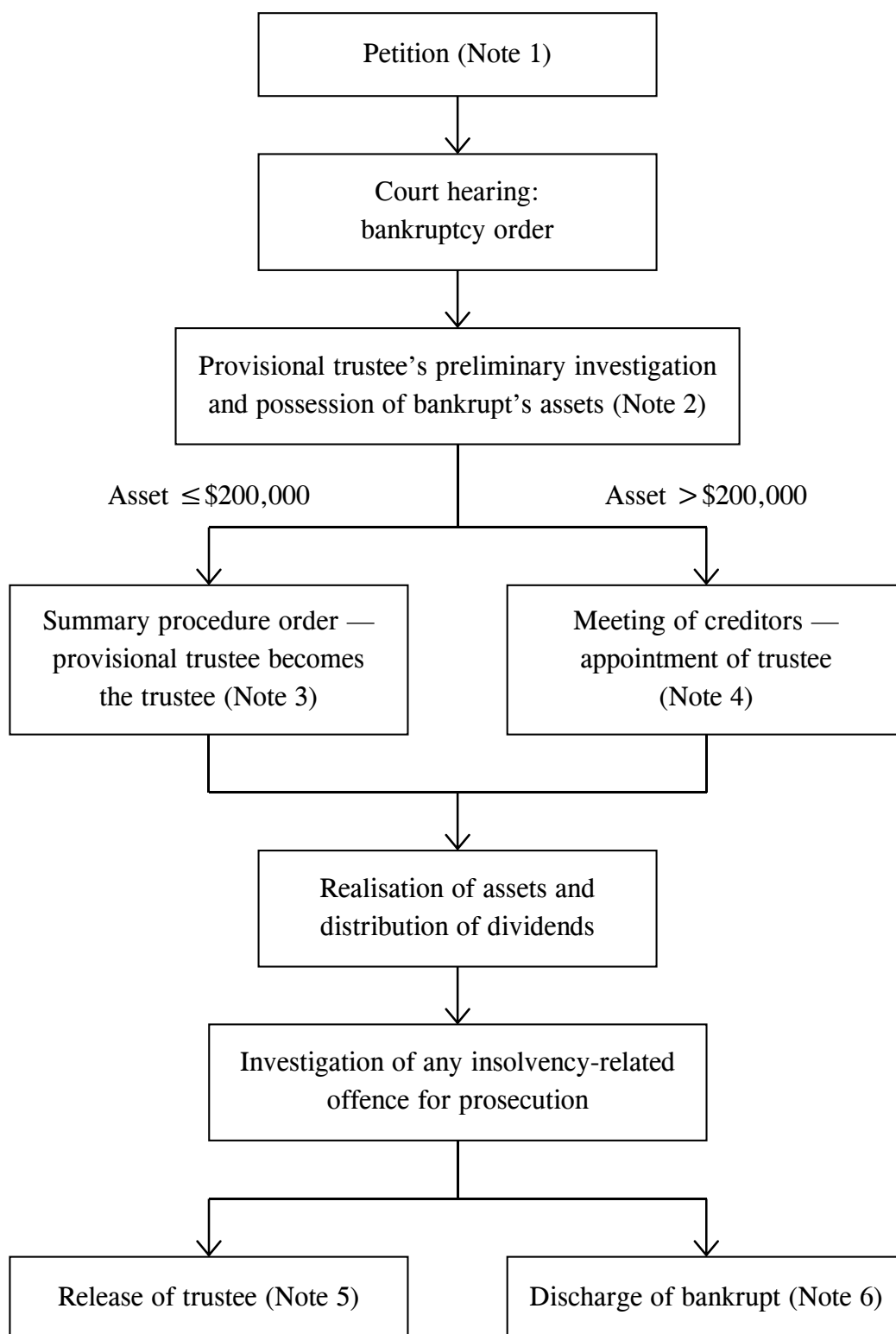
4.37 The Official Receiver agrees with the audit recommendation. She has said that ORO will continue to explore measures to minimise the impact of fluctuating cost recovery rates on fee charging.

Official Receiver’s Office:
Organisation chart (extract)
(31 October 2019)



Source: ORO records

Flowchart of bankruptcy procedures

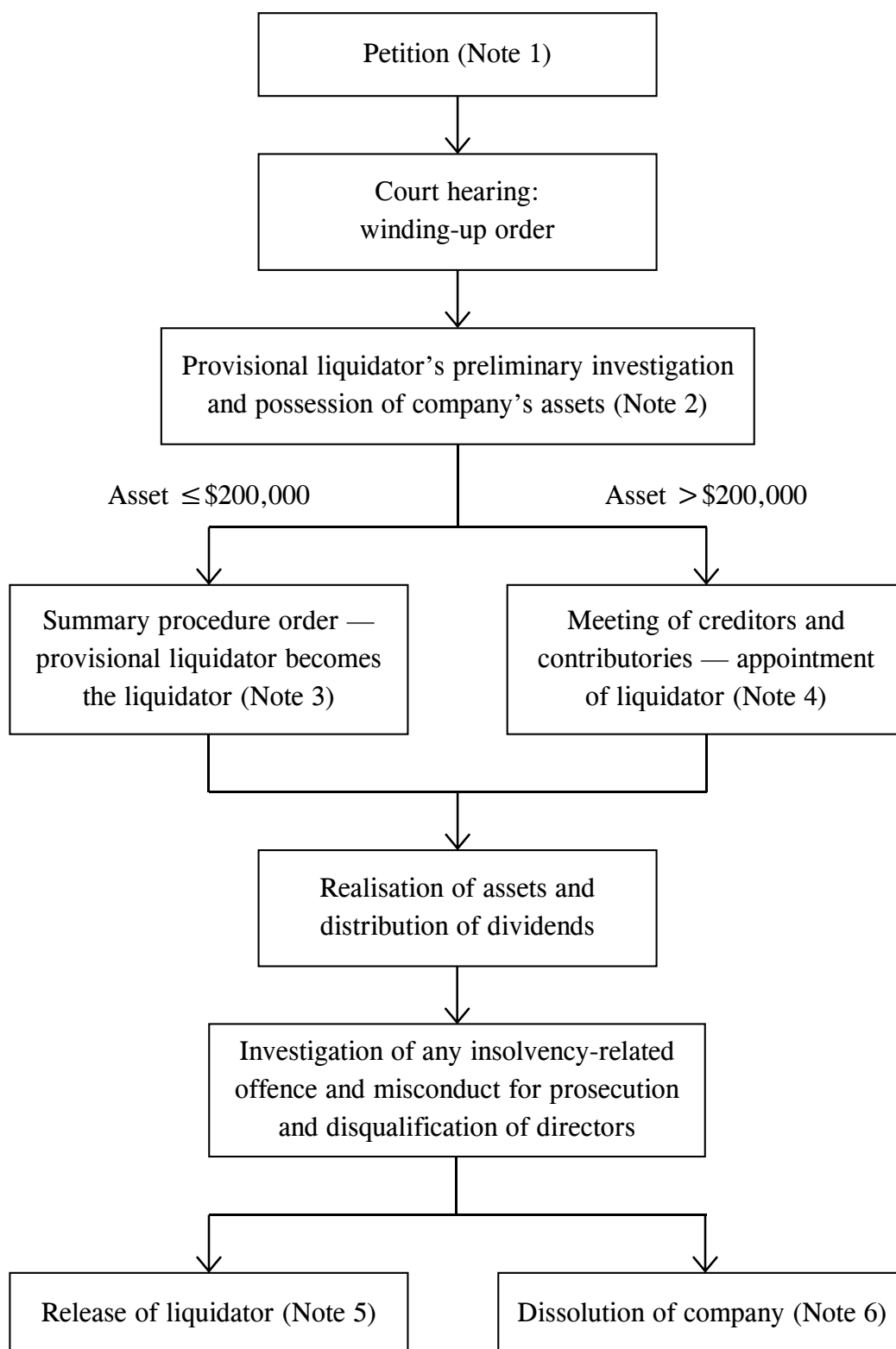


Source: ORO records

Appendix B
(Cont'd)
(para. 1.6 refers)

- Note 1: A petition may be presented by an individual who is unable to repay his debts (debtor-petition case), or by his creditors (creditor-petition case).*
- Note 2: Where the court makes a bankruptcy order, the Official Receiver becomes the provisional trustee of the bankrupt's assets. In case of a debtor's petition, the Official Receiver as provisional trustee may appoint any qualified person as provisional trustee in her place if the assets are unlikely to exceed \$200,000 (summary case).*
- Note 3: For a summary case, the provisional trustee may apply to the court for a summary procedure order and appointment as the trustee. When the order is granted, there will be no meeting of creditors. A trustee's duties include realising a bankrupt's assets and paying dividends to the creditors.*
- Note 4: For a non-summary case (where the bankrupt's assets exceed \$200,000 or where creditors with prescribed percentage of liabilities in value request), the provisional trustee holds a general meeting of creditors to consider the appointment of a trustee and/or formation of creditors' committee. The committee, if formed, may give direction to the trustee in the administration of a bankrupt's property.*
- Note 5: Where the trustee considers that there are no more realisable assets and no further action is required in administration of the bankruptcy proceedings, the trustee applies to the court for release.*
- Note 6: A bankrupt is automatically discharged from bankruptcy four years from the date of bankruptcy order. The bankruptcy period may cease to run if a non-commencement order is made or may be extended if the trustee or any creditor objects to the discharge and approved by the court.*

Flowchart of winding-up procedures



Source: ORO records

Appendix C
(Cont'd)
(para. 1.13 refers)

- Note 1: A petition may be presented by the company or its creditors. The Financial Secretary or a statutory regulatory body (e.g. the Securities and Futures Commission) may also present the petition if it is in the public interest to do so.*
- Note 2: On the making of a winding-up order by the court, the Official Receiver shall become the provisional liquidator if no other person is appointed by the court. The provisional liquidator shall take possession of the wound-up company's assets. The Official Receiver as provisional liquidator may appoint any qualified person to act as provisional liquidator in her place if the company's assets are unlikely to exceed \$200,000 (summary case).*
- Note 3: For a summary case, the provisional liquidator may apply to the court for a summary procedure order and appointment as liquidator. When the order is granted, there will be no meeting of creditors and contributories. A liquidator's duties include realising the company's assets and paying dividends to the creditors.*
- Note 4: For a non-summary case (where the company's assets exceed \$200,000 or where creditors with prescribed percentage of liabilities in value request), the provisional liquidator holds meetings of creditors and contributories (e.g. shareholders of the wound-up company) to consider the appointment of a liquidator and a committee of inspection. The committee, if formed, may give direction to the liquidator in the administration of a wound-up company's assets.*
- Note 5: Where the liquidator considers that there are no more realisable assets and no further action is required in the administration of the winding-up proceedings, the liquidator applies to the court for release.*
- Note 6: If the Official Receiver is the liquidator, she files a certificate to the Registrar of Companies and the company will normally be dissolved after two years. If a PIP is the liquidator, he seeks an order from the court and the company will dissolve on the date of the order.*

Acronyms and abbreviations

Audit	Audit Commission
C(WUMP)O	Companies (Winding Up and Miscellaneous Provisions) Ordinance
FSTB	Financial Services and the Treasury Bureau
IVA	Individual voluntary arrangement
LegCo	Legislative Council
LRC	Law Reform Commission of Hong Kong
ORO	Official Receiver's Office
PIP	Private insolvency practitioner
UNCITRAL	United Nations Commission on International Trade Law

MANAGEMENT OF INSOLVENCY SERVICES

Executive Summary

1. The Official Receiver's Office (ORO) is responsible for providing insolvency services in Hong Kong, including the compulsory winding-up of companies and personal bankruptcy under the Companies (Winding Up and Miscellaneous Provisions) Ordinance (C(WUMP)O – Cap. 32) and the Bankruptcy Ordinance (Cap. 6) respectively. In 2019-20, ORO's estimated expenditure was \$223 million, of which \$177 million (about 80%) was related to personal emoluments or personnel related expenses. The Audit Commission (Audit) has recently conducted a review to examine the management of insolvency services by ORO with a view to identifying areas for improvement.

Administration of in-house insolvency services

2. According to ORO, under the outsourcing schemes, nearly all winding-up cases and about 25% of debtor-petition summary bankruptcy cases are undertaken by private insolvency practitioners (PIPs). As at 31 December 2019, ORO was working on 20,349 bankruptcy cases (including 15,384 undischarged bankruptcy cases), 190 winding-up cases (carried forward from previous years before all winding-up cases were undertaken by PIPs), 471 outstanding winding-up petitions and 81 winding-up cases on the release programme (para. 2.2). Audit examination has revealed the following areas for improvement:

- (a) ***Time target not met for processing summary bankruptcy cases with no monthly contributions but with assets for distribution.*** According to ORO Circular of May 2000, for summary bankruptcy cases with no monthly contributions but with assets for distribution, they should be placed on the release programme within 18 months from the dates of bankruptcy orders. During the period from 2016 to 2018, the annual achievements of the 18-month target for processing these summary cases were below 50%, ranging from 34% to 40%. As the timeliness of processing cases with possible assets for realisation and distribution is a prime concern of creditors, ORO needs to continue to closely monitor the achievement of the

Executive Summary

18-month target, and formulate effective strategies for dealing with cases with difficulties in asset realisation in order to meet the target processing time (paras. 2.3, 2.4 and 2.7);

- (b) ***Performance target on distribution of dividends not clearly defined.*** As stated in ORO's Controlling Officer's Report, there was a target processing time of nine months relating to distribution of dividends (i.e. "completing procedures when the distribution is possible"). According to ORO's guidelines, the point in time when the distribution is possible (i.e. the starting point for counting the target processing time of nine months) was: (i) the month when the cash balance meets the threshold of \$70,000 for a bankruptcy case and \$200,000 for a winding-up case; or (ii) the date of receipt by the Dividend Unit when a case with cash balance below the thresholds was referred by the case officer. With a view to clearly defining the performance target on distribution of dividends in the Controlling Officer's Report, ORO needs to specify more clearly in the Report the performance target for completion of procedures for distribution of dividends (paras. 2.9 to 2.11);
- (c) ***Clearing exercise of pre-2002 insolvency cases not yet completed.*** In March 2008, ORO commenced an exercise with a view to clearing the outstanding matters of the 1,200 pre-2002 insolvency cases (i.e. cases with date of bankruptcy order or winding-up order before 2002) as soon as possible. However, as at 31 December 2019, more than 11 years after the commencement of the exercise, 200 (17%) pre-2002 insolvency cases (comprising 107 bankruptcy cases and 93 winding-up cases) still remained outstanding (para. 2.12);
- (d) ***Need to formulate effective strategies for handling bankruptcy cases involving landed properties.*** With a view to taking more effective follow-up actions in asset realisation, in December 2014, the Project Work Section was set up under the Case Management Division to deal with the majority (i.e. 2,790 cases) of long outstanding landed properties (e.g. residential properties, commercial properties, car parking spaces and land lots) vested in the Official Receiver as trustee in various bankruptcy cases. For other outstanding landed properties that had not been taken up by the Project Work Section in 2014 and the new landed properties vested in the Official Receiver as trustee thereafter, they were handled by individual case officers. Audit noted that, as at 31 December 2019, 1,996 cases remained outstanding. Of them, the bankruptcy orders of 1,565 (78.4%) cases were

Executive Summary

made before 2006 (i.e. over 14 years ago). Given that the period of bankruptcy is generally four years (up to a maximum of eight years if the court makes an order under the Bankruptcy Ordinance to extend the bankruptcy), it was not entirely satisfactory that there were a notable number of bankruptcy cases involving landed properties vested in the Official Receiver as trustee for over 14 years but still not yet resolved (paras. 1.8, 2.14 to 2.16 and 2.18); and

- (e) ***Large balance in suspense accounts.*** According to ORO's guidelines, for winding-up cases and bankruptcy cases of which the Official Receiver acts as liquidator/trustee, all the company liquidation estates and bankruptcy estates recovered should be placed in the Companies Liquidation Account and the Bankruptcy Account respectively. Interest earned from these estates is transferred to the general revenue annually. Audit noted that as at 30 November 2019, ORO had placed monies recovered from 21 winding-up cases (amounting to \$4.7 million) and 207 bankruptcy cases (amounting to \$40.2 million) in the suspense accounts. In particular, 8 (38%) of the 21 winding-up cases were released cases and 29 (14%) of the 207 bankruptcy cases were released/rescinded/withdrawn cases. It is less than satisfactory that monies have been put into suspense accounts for a long time pending clarifications, particularly for amounts belonging to the estate of the liquidation or bankruptcy that should have been accounted for in the Companies Liquidation Account and the Bankruptcy Account (paras. 2.22 to 2.24 and 2.26).

Monitoring of private insolvency practitioners

Management of outsourcing schemes

3. At present, ORO operates four outsourcing schemes, including: (a) the Panel A scheme (an administrative scheme for appointing liquidators or special managers in non-summary winding-up cases); (b) the Panel T scheme (an open tender system for appointing provisional liquidators/liquidators in summary winding-up cases); (c) the debtor-petition summary bankruptcy case scheme (an open tender system for appointing provisional trustees/trustees in debtor-petition summary bankruptcy cases); and (d) the preliminary examination scheme (an open tender system for appointing professional firms to perform preliminary work relating to debtor-petition bankruptcy cases handled by ORO). According to ORO, it adopts various measures (e.g. conducting quality audits and field audits) to monitor the

Executive Summary

performance of the PIPs under the four outsourcing schemes. If there is a breach of statutory or contractual duties, ORO may take regulatory actions against the PIPs (paras. 3.2 and 3.3). Audit examination has revealed the following areas for improvement:

- (a) ***Need to conduct quality audits for Panel T scheme.*** According to the Conditions of Contract of the tenders, ORO will conduct quality audits on the cases allocated to PIPs under the Panel T scheme and debtor-petition summary bankruptcy case scheme. When conducting a quality audit, the case officer examines the adequacy and quality of key areas of the administration work (e.g. applying for summary procedure order and realising assets) performed by the PIP. However, Audit noted that for the Panel T scheme, no quality audits had been conducted up to 31 January 2020 (paras. 3.4 and 3.6);
- (b) ***Need to ensure that the target coverage of field audits on cases outsourced under Panel T scheme is met.*** ORO staff are required to conduct field audits of the selected cases outsourced under the Panel T scheme and debtor-petition summary bankruptcy case scheme respectively. Audit noted that for the two most recently completed contracts (covering the period from April 2014 to March 2016 and April 2016 to March 2018) of the Panel T scheme, field audits had been completed on only 3.1% and 2.7% (i.e. 78% and 68% of the target coverage) of the cases outsourced under the two contracts respectively (paras. 3.8 and 3.9);
- (c) ***Need to issue warning letters for PIPs' unsatisfactory performance.*** According to the Conditions of Contract of the tenders of the Panel T scheme, the debtor-petition summary bankruptcy case scheme and the preliminary examination scheme, ORO may issue warning letters to the PIPs for their unsatisfactory performance (e.g. failure to submit preliminary examination questionnaires within 7 working days of the interview with the bankrupts). Allocation of cases to PIPs would be suspended for one or two months when a certain number of warning letters have been issued. For PIPs which have been suspended for case allocation for two months or more in the previous two contracts, they will not be considered for tender assessment. However, Audit found that in the period from 2016 to 2019, no warning letters had been issued. Audit also noted that during the period, there were 8 incidents of PIPs of the preliminary examination scheme failing to submit the preliminary examination questionnaires within 7 working days of the interview with the bankrupts

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and warning letters could have been issued to these under-performing PIPs according to the Conditions of Contract of the tenders (paras. 3.11 to 3.13 and 3.15); and

- (d) ***Need to make continuous improvement in monitoring performance of PIPs.*** According to ORO Circular of October 2013, for cases handled by all PIPs (appointed under the outsourcing schemes, or by the court or creditors), case officers are required to monitor the PIPs' conduct or performance in accordance with the relevant statutory and contractual requirements. Case officers should report unsatisfactory conduct or performance of PIPs in a standard form for central keeping by the Compliance and Regulatory Section. Audit reviewed the registers of unsatisfactory conduct of PIPs, which contained the standard forms completed by case officers and would be reviewed when assessing the past performance of PIPs for tender evaluation, and noted that: (i) while a notable number of liquidator's accounts and trustee's accounts were outstanding from PIPs as at 31 December 2019, no such information was recorded in the registers; and (ii) six substantiated or partially substantiated complaints against PIPs received in the period from 2015 to 2019 were not recorded in the registers (paras. 3.16 and 3.17).

Accounts submitted by PIPs

4. A PIP shall submit an account of his receipts and payments as the liquidator (i.e. liquidator's account) to ORO twice a year. For bankruptcy cases, ORO requires a PIP to submit an account of his receipts and payments as the trustee (i.e. trustee's account) every two years. In submitting the account, the trustee is required to remit to ORO the ad valorem fee, which is charged at progressively reducing rates from 10% to 1% on the aggregate amount of the assets realised. ORO may cause the submitted liquidator's accounts and trustee's accounts to be audited. All accounts shall be filed with the court and made available for inspection by any interested parties upon payment of a fee (para. 3.20(b)). Audit examination has revealed the following areas for improvement:

- (a) ***Need to review and enhance follow-up actions taken on long overdue accounts.*** Submission of accounts by liquidators and trustees are statutory requirements stipulated in C(WUMP)O and the Bankruptcy Ordinance. Late submission of accounts to ORO may also lead to delay in remitting ad valorem fees to ORO. Audit noted that as at 31 December 2019, there

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were 763 liquidator's accounts and 15,355 trustee's accounts overdue but not yet submitted. Of them, 302 (40%) liquidator's accounts and 146 (1%) trustee's accounts had been overdue for more than five years. Audit also noted that besides issuing reminder letters, no other follow-up actions had been taken by ORO (paras. 3.21 and 3.22); and

- (b) *Need to improve examination/checking of accounts.* All liquidator's accounts and trustee's accounts submitted by PIPs are subject to an examination of content and accuracy or a cursory checking by ORO. Field audits are also conducted on selected accounts to inspect PIPs' books, accounts and vouchers. However, Audit noted that as at 31 December 2019, 30,972 accounts had been received but not yet examined/checked. Of these 30,972 accounts, 843 (2.7%) accounts had been received for more than five years (paras. 3.23 and 3.24).

Way forward

Modernisation of insolvency provisions

5. In October 1996 and July 1999, the Law Reform Commission of Hong Kong made a number of recommendations to update the local insolvency provisions, taking into account international practices. However, after a long lapse of time, two significant proposals have not yet been implemented. They were: (a) the statutory corporate rescue procedure (i.e. to impose a moratorium during which a company is protected from creditors' action and put under the control of a provisional supervisor whose task is to formulate an arrangement for agreement with its creditors or make other appropriate recommendations) and insolvent trading provisions (i.e. to impose a liability on responsible persons for insolvent trading once a company traded while insolvent or if the company continued to trade when there was no reasonable prospect of preventing the company from becoming insolvent); and (b) cross-border insolvency. As stated in the report of July 1999 of the Law Reform Commission of Hong Kong, the treatment of cross-border insolvency was important in Hong Kong because of its status as an international business and financial centre, given that a large proportion of companies listed in Hong Kong were registered abroad (paras. 1.19, 4.2 and 4.7). Audit examination has revealed the following areas for improvement:

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- (a) *Need to introduce the bill on corporate rescue procedure and insolvent trading provisions into Legislative Council in a timely manner.* In October 2015, the Financial Services and the Treasury Bureau (FSTB) informed the Legislative Council that the target was to introduce the bill on corporate rescue procedure and insolvent trading provisions into the Legislative Council in 2017/18. However, up to January 2020 (i.e. over 23 years since the recommendation of the Law Reform Commission of Hong Kong in October 1996), the relevant bill had not yet been introduced into the Legislative Council (para. 4.6); and
- (b) *Need to sustain efforts in taking forward the domestic cross-border insolvency legislation and conduct public consultation as appropriate.* In order to provide certainty and align Hong Kong with other major jurisdictions, there has been a strong voice from the insolvency profession and from the court, calling for adoption of specific domestic legislation to deal with cross-border insolvency issues. As the cross-border insolvency matter is a complex subject requiring a careful and comprehensive deliberation, FSTB and ORO should continue to consider how to take forward the domestic cross-border insolvency legislation and conduct public consultation as appropriate (para. 4.11).

Deployment of manpower of ORO

6. *Need to conduct a strategic review on future manpower deployment.* Over the years, while there had been more outsourcing of cases and the number of insolvency cases had generally been on a decreasing trend, Audit noted that no staff savings had been achieved by ORO and the establishment of ORO had increased by 49 (22%) from 224 as at 31 March 2010 to 273 as at 31 March 2019. To meet future challenge, ORO needs to conduct a strategic review on future manpower deployment, having regard to the increased regulatory role, the progress of clearing backlog cases and the anticipated increase of insolvency caseload in the coming period (paras. 4.25 and 4.26).

Review of fees structure of ORO

7. *Need to minimise the impact of fluctuating cost recovery rates on fee charging.* In line with Government's policy of setting bankruptcy and winding-up fees and charges to recover the total costs for services of ORO as far as possible, it

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has been ORO's long established practice to adopt the global costing approach for achieving full cost recovery on an overall basis. In effect, this means that the fees charged in some insolvency cases will be higher than the actual costs incurred to defray the costs of administering other cases where there are no or inadequate assets to cover costs. Audit noted that after ORO's fee revision in 2013, ORO's cost recovery rates had fluctuated notably (ranging from 97% to 326%) and could meet the full-cost target (i.e. from 95% to 105%) only in 2013-14, 2016-17 and 2018-19. In order to address the significant fluctuations of cost recovery rates, in August 2018, ORO completed a preliminary review comparing the fees structures of ORO and insolvency authorities in other jurisdictions (e.g. the United Kingdom) with a view to considering possible options available for FSTB's consideration. However, up to January 2020, ORO had not completed the review of its fees structure (paras. 4.30 and 4.33 to 4.35).

Audit recommendations

8. **Audit recommendations are made in the respective sections of this Audit Report. Only the key ones are highlighted in this Executive Summary. Audit has *recommended* that the Official Receiver should:**

Administration of in-house insolvency services

- (a) **continue to closely monitor the achievement of the 18-month target for summary bankruptcy cases with no monthly contributions but with assets for distribution, and formulate effective strategies for dealing with cases with difficulties in asset realisation in order to meet the target processing time (para. 2.27(a));**
- (b) **specify more clearly in the Controlling Officer's Report the performance target for completion of procedures for distribution of dividends (para. 2.27(b));**
- (c) **formulate effective strategies for clearing the 200 pre-2002 long outstanding insolvency cases as soon as practicable and handling bankruptcy cases involving landed properties (para. 2.27(c) and (d));**

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- (d) **periodically review the balance kept in the suspense accounts, especially for released/rescinded/withdrawn cases, and take effective measures to ascertain the nature of the funds and transfer them back to the Companies Liquidation Account and the Bankruptcy Account where appropriate in a timely manner (para. 2.27(f));**

Monitoring of PIPs

- (e) **implement the procedures on conducting quality audits for the Panel T scheme as soon as practicable (para. 3.18(a));**
- (f) **remind the Financial Services Division to take measures to ensure that the target coverage of field audits is met (para. 3.18(b));**
- (g) **keep in view the need of issuing warning letters for PIPs' unsatisfactory performance including any prolonged delay in the submission of preliminary examination questionnaires in future (para. 3.18(c));**
- (h) **take measures to enhance the reporting and recording of unsatisfactory conduct or performance of PIPs (para. 3.18(d));**
- (i) **ensure that the registers of unsatisfactory conduct of PIPs are maintained properly and make continuous improvement in monitoring the performance of PIPs (para. 3.18(e) and (f));**
- (j) **review and enhance the follow-up actions taken on long overdue accounts from PIPs and the current procedures on the examination/checking of accounts from PIPs (para. 3.26);**

Way forward

- (k) **conduct a strategic review on future manpower deployment, having regard to the increased regulatory role, the progress of clearing backlog cases and the anticipated increase of insolvency caseload in the coming period (para. 4.28(a)); and**
- (l) **explore measures to minimise the impact of the fluctuating cost recovery rates on fee charging (para. 4.36).**

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9. **Audit has also *recommended* that the Secretary for Financial Services and the Treasury should, in collaboration with the Official Receiver:**

- (a) **take action to introduce the bill on corporate rescue procedure and insolvent trading provisions into the Legislative Council in a timely manner (para. 4.12(a)); and**
- (b) **continue to consider how to take forward the domestic cross-border insolvency legislation and conduct public consultation as appropriate (para. 4.12(b)).**

Response from the Government

10. **The Secretary for Financial Services and the Treasury and the Official Receiver agree with the audit recommendations.**

CHAPTER 7

**Development Bureau
Lands Department**

**Management of short term tenancies
by the Lands Department**

**Audit Commission
Hong Kong
2 April 2020**

This audit review was carried out under a set of guidelines tabled in the Provisional Legislative Council by the Chairman of the Public Accounts Committee on 11 February 1998. The guidelines were agreed between the Public Accounts Committee and the Director of Audit and accepted by the Government of the Hong Kong Special Administrative Region.

Report No. 74 of the Director of Audit contains 8 Chapters which are available on our website at <https://www.aud.gov.hk>

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MANAGEMENT OF SHORT TERM TENANCIES BY THE LANDS DEPARTMENT

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MANAGEMENT OF SHORT TERM TENANCIES BY THE LANDS DEPARTMENT

Executive Summary

1. The Lands Department (LandsD) is the land administrative agency of the Government. Land within the territory of Hong Kong was about 110,700 hectares (ha) as of September 2019. Apart from those disposed of, allocated or occupied under other land instruments, any remaining land is broadly termed unleased and unallocated government land. According to LandsD: (a) unleased and unallocated government land (about 65,430 ha as of September 2019) covered a vast range of land which may not have potential for temporary uses. These include, for example, land occupied by public infrastructure or facilities under management and/or maintenance by various government departments without any formal land allocation (e.g. country parks, roads and public transport interchanges). As of September 2019, the area of such land was about 57,300 ha (88% of the unleased and unallocated government land of 65,430 ha); (b) for sites on unleased and unallocated government land with possible potential for temporary uses, if there are no relevant competing demands from government bureaux/departments (B/Ds), they will be made available for short term tenancy (STT) use by parties outside the Government; (c) as of September 2019, LandsD managed 5,582 STTs with a total land area of 2,411 ha and 955 vacant government sites (VGSs) suitable for STT use with a total land area of 192 ha; and (d) the rental income from STTs for 2018-19 was \$1,575 million.

2. According to LandsD, the policy objectives relating to STTs include ensuring temporary beneficial use of the land and obtaining revenue from what would otherwise be idle resources. STTs are granted by LandsD by means of open tender or direct grant. LandsD will take into account the timetable for the long-term use and development of the sites in determining the duration of STTs. In general, STTs are granted for a fixed term of a duration ranging from one year to five years and thereafter on a periodic basis. With policy justifications, a longer term of up to seven years may be granted. If upon expiry of the fixed term or the first 3 years (whichever is the later), the sites concerned are not immediately required for permanent or other temporary uses within 3 years, they will usually be re-tendered for another fixed term (for STTs granted by tender) or continue on a monthly or

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quarterly basis (for STTs by direct grant). STTs are granted to tenants for specific uses as stipulated in the tenancy agreements. Site inspections are carried out by LandsD to ascertain if there are breaches of tenancy conditions. Upon detection of tenancy breaches, enforcement actions (including taking action to recover possession of the site) may be taken as appropriate. The 12 District Lands Offices (DLOs) of LandsD are responsible for administration of STTs, including the granting and renewal of STTs, monitoring and enforcement of conditions of STTs and keeping of site records and information. The Audit Commission (Audit) has recently conducted a review to examine the management of STTs by LandsD.

Granting and renewal of short term tenancies

3. *Long time taken for processing STT applications.* Audit analysed the processing time of 1,165 STTs approved by LandsD from 2014-15 to 2018-19, and noted that: (a) the processing time ranged from less than 1 month to 22 years, averaging 20 months; and (b) for 204 (18% of 1,165) STTs, the processing time was longer than 3 years. Audit examination revealed one case in which the DLO concerned had not taken adequate and timely actions in following up the granting of an STT site, including the processing of the STT application (which took 14 years) and ensuring fulfilment of the related tenancy conditions for granting the STT. In this connection, Audit noted that LandsD had not set any time target for processing STT applications (paras. 2.5 and 2.6).

4. *Scope for enhancing guidelines for processing STT applications.* According to LandsD guidelines, STT applications received are vetted by individual DLOs. Audit noted that LandsD had no specific guidelines on: (a) handling STT applications from applicants with no capacity (e.g. an unincorporated body) to sign the tenancy agreements (including whether the applicant should be rejected right away or a grace period could be given for rectification); and (b) handling STT applications with lack of policy support, including whether the applicant should be informed of the reason for lack of policy support, and whether such application should be rejected or the applicant could be allowed to modify its proposal in order to obtain the policy support (paras. 2.7 and 2.8).

5. *Different practices in demanding deposits from STT tenants.* According to LandsD guidelines, a deposit should be demanded from the tenant when a tenancy agreement is signed to cover the cost of removing structures erected on the STT site

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upon termination of the tenancy agreement. For STTs granted to non-profit-making or charitable organisations, the requirement to pay a deposit is waived. Audit examination revealed that there were different practices in demanding deposits from two tenants which were both charitable organisations and approved to erect structures on the STT sites. In the event, no deposit was demanded from one tenant while a deposit was demanded from the other. In Audit's view, LandsD needs to consider providing further guidelines on demanding deposits from non-profit-making or charitable organisations for STTs (paras. 2.12 and 2.13).

6. ***Need to consider setting time frame for publishing tenancy information of all STTs granted.*** With a view to enhancing transparency of land information, information of sites granted by STTs since 1 January 2018 has been published on GeoInfo Map since December 2018. According to LandsD, tenancy information of STTs granted prior to January 2018 would be uploaded onto GeoInfo Map progressively. Of the 5,590 STTs managed by LandsD as of October 2019, tenancy information of only 1,333 (24%) STTs had been uploaded onto GeoInfo Map. Audit noted that LandsD did not have a time frame for publishing tenancy information of all STTs granted on GeoInfo Map. In Audit's view, to enhance the transparency of land information, LandsD needs to consider setting such a time frame (paras. 2.14 and 2.15).

7. ***Need to analyse the reasons for allowing the same tenants to continue their STTs for a long time.*** According to LandsD guidelines, STTs generally have a fixed term of not more than 7 years. According to the Development Bureau (DEVB), temporary or short-term uses on a site should not prejudice any planned permanent development of the site and should comply with statutory planning requirements. Audit analysed the 5,590 STTs managed by LandsD as of October 2019, and noted that for 4,565 (82% of 5,590) STTs, the tenants had remained the same for over 7 years. In fact, the tenants for 2,353 (42% of 5,590) STTs had remained the same for more than 20 years (up to 55 years). Audit noted that LandsD had no readily available information on the reasons for allowing the same tenants to continue their STTs for a long time and whether the statutory planning requirements were met (paras. 2.18 to 2.20).

8. ***Scope for improvement in rental review process.*** According to LandsD guidelines, rents charged under STTs are generally reviewed every three or five years. For STTs for regularisation of unauthorised occupation of government land, inspections should be carried out by relevant DLOs to determine whether the

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tenancies should be renewed upon the rental review process. Audit selected 5 such STTs for examination and found that: (a) one DLO had suspended all site inspections in relation to rental review for garden STT cases since October 2016; and (b) another DLO had not carried out site inspection in three rental review exercises of an STT granted for regularisation of unauthorised occupation of government land (paras. 2.21 and 2.22).

Monitoring of tenancy conditions

9. *Need to conduct site inspections as required.* According to LandsD guidelines, in order to prevent tenants from subletting the premises, erecting unauthorised structures or extending the area of occupation into adjacent government land, it is mandatory that all STT sites have to be inspected once every 3 years for non-private garden STTs or 5 years for private garden STTs (hereinafter referred to as mandatory requirements). Where practicable and staff resources permitting, DLOs should consider formulating and implementing a regular inspection programme based on the inspection priorities of STTs (i.e. high, medium and low priority cases). As of October 2019, LandsD managed 5,590 STTs, of which 456 STTs were not yet due for inspection under the mandatory requirements. Of the remaining 5,134 STTs with inspections needed under the mandatory requirements, Audit noted that: (a) no site inspection had been conducted for 1,409 (27% of 5,134) STTs; and (b) for the 3,725 (73% of 5,134) STTs with site inspections conducted, the site inspections for 1,538 (41% of 3,725) STTs had not been conducted in compliance with the mandatory requirements (paras. 3.2 and 3.3).

10. *Need to improve effectiveness of site inspections.* According to LandsD, DLOs should conduct site inspections upon receipt of complaints. In particular, for special cases, site inspections should be carried out outside office hours if situation warrants. Audit noted one case in which site inspections conducted by one DLO were not effective in investigating a complaint on alleged breach of tenancy conditions. While the alleged breach related to non-compliance with tenancy conditions on Sundays, site inspections were conducted on weekdays instead of Sundays (para. 3.4).

11. *Need to strengthen enforcement actions against breaches of STT conditions.* In general, an STT agreement contains terms and conditions which require the tenant's compliance. According to LandsD guidelines, DLOs should follow the stipulated time frames for taking enforcement actions against breaches of STT conditions. Audit noted 2 cases in which DLOs had not taken adequate and

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timely enforcement actions against breaches of STT conditions, including breaches related to unauthorised structures on an STT site and breach of restriction on use of an STT site. In Audit's view, LandsD needs to take adequate and timely enforcement actions against breaches of STT conditions (paras. 3.7 and 3.9).

12. *Need to improve the recording of STT information in Tenancy Information System (TIS).* TIS was introduced in 2009 for recording information of STTs granted by LandsD. Audit examination of selected STT records in TIS found that they had errors and omissions (e.g. date of application and date of site inspection). In Audit's view, LandsD needs to take measures to ensure the completeness and accuracy of STT information in TIS (paras. 3.14 to 3.16).

13. *Making better use of information technology for providing management information.* Audit noted that some important STT information was not readily available from TIS, including: (a) inspection priorities (see para. 9); (b) date of site inspection (omitted in some TIS records — see para. 12); and (c) information of warning letters issued against breaches of STT conditions (which was not always input into TIS). In Audit's view, LandsD needs to take measures to make better use of information technology for providing management information for monitoring the management of STTs (paras. 3.17 and 3.18).

Management of vacant government sites suitable for short term tenancy use

14. As of September 2019, LandsD managed 955 VGSs suitable for STT use, which, in general, comprised: (a) 92 sites (with a total land area of 69 ha) of general commercial interest to the public which were suitable to be let out for commercial uses through STT by means of open tender; and (b) 863 sites (with a total land area of 123 ha) of no general commercial interest to the public which could be granted directly to particular organisations or bodies (e.g. non-governmental organisations (NGOs)) for community, institutional or non-profit-making uses that support specific policy objectives (para. 4.2).

15. *Need to ensure completeness and accuracy of lists of VGSs suitable for STT use.* According to LandsD, DLOs maintain lists of VGSs suitable for STT use in respect of sites under their respective management. On a quarterly basis, DLOs

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update and submit such lists to the relevant District Review Boards (DRBs) for review, the relevant Regional Assistant Directors of LandsD for monitoring and the LandsD Headquarters for records. Audit examination of the records of three DLOs found that some VGSs under their management might be suitable for STT use but these sites were not included in the lists of VGSs suitable for STT use as of September 2019. After verification by the three DLOs upon Audit's referrals: (a) 11 sites (with a total land area of 0.4 ha) were found suitable for STT use by NGOs and would be made available for such use; and (b) 67 sites (with a total land area of 4.3 ha) were pending reviews on the suitability for STT use. In addition, according to LandsD's lists of VGSs suitable for STT use, as of September 2019, 92 sites were of general commercial interest to the public suitable to be let out through STT. Audit examination revealed that, for 23 of the 92 sites, after verification by the pertinent DLOs upon Audit's referrals, it was found that these sites should not have been included in the lists of VGSs suitable for STT use due to various reasons (e.g. allocated to other B/Ds). Subsequent to Audit's referrals, LandsD Headquarters issued a memorandum to DLOs in January 2020 to provide further guidelines on the management of the STT use of VGSs. Audit considers that LandsD needs to make continued efforts to ensure the completeness and accuracy of lists of VGSs suitable for STT use. LandsD also needs to early complete the reviews on suitability for STT use of the sites identified by Audit (paras. 4.4 to 4.7).

16. ***Scope for improving documentation of selection criteria for VGSs suitable for STT use and the decisions on suitability for STT use.*** According to LandsD, local circumstances and demand for VGSs suitable for STT use are different in each district. In selecting VGSs suitable for STT use, each DLO has its own set of criteria which are endorsed by its DRB. Audit noted that: (a) of the 3 DLOs selected for examination by Audit, 2 DLOs could not locate the documentation for the selection criteria endorsed by their respective DRBs; and (b) according to LandsD guidelines, in DRB meetings, assessments on VGSs as to whether any sites are suitable for STT use will be made and agreed. All the decisions should be properly documented for record purposes. However, Audit noted that as of January 2020, 5 of the 12 DLOs had not prepared minutes of meetings to document their respective DRBs' decisions made for the quarter ended 30 September 2019 (para. 4.8).

17. ***Scope for making better use of information technology in monitoring VGSs suitable for STT use.*** According to LandsD, its Headquarters assumes the role of overall supervision and monitoring of DLOs' work to ensure compliance with the established policy and guidelines. As information relating to VGSs suitable for STT use is maintained by DLOs concerned, LandsD Headquarters needs to call regular

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returns (in the form of spreadsheets) from DLOs for monitoring purposes. As far as could be ascertained, LandsD Headquarters had not compiled regular management information (e.g. executive summary or highlights) on VGSs suitable for STT use for senior management's information. In Audit's view, there is merit for LandsD to make better use of information technology to record information of VGSs suitable for STT use with a view to enhancing the provision of management information for monitoring purposes (para. 4.10).

18. ***Scope for improving consultation with B/Ds concerned and exploring measures for putting VGSs suitable for STT use to beneficial use.*** For three VGSs suitable for STT use, which had been reserved since 2004 for a development programme, there were three applications for beneficial use of the sites between 2010 and 2016. Audit noted that: (a) LandsD had not consulted the concerned bureau about the then latest development programme before rejecting the first application; and (b) regarding the second and the third applications, LandsD had consulted the concerned bureau who objected/did not agree to the applications due to various reasons (e.g. the proposed tenancy period might impose constraints on the permanent use of the sites). However, there was no documentary evidence showing that LandsD had explored with the concerned bureau whether its concerns could be addressed (e.g. by shortening the tenancy period) (para. 4.13).

19. ***Need to keep under review effectiveness of the funding scheme to support the use of VGSs suitable for STT use by NGOs.*** To support the use of VGSs suitable for STT use and of no general commercial interest to the public by NGOs, DEVB launched a \$1 billion "Funding Scheme to Support the Use of Vacant Government Sites by Non-Government Organisations" (Funding Scheme) in February 2019. The Funding Scheme would provide successful NGO applicants with subsidies to support the costs of basic works required to make the leased sites fit for use. According to DEVB, since the launch of the Funding Scheme and up to September 2019, a total of eight applications had been received and approved. LandsD had provided information on approved STT applications to DEVB for consideration of funding support under the Funding Scheme. As the Funding Scheme is a new measure, in Audit's view, DEVB, in collaboration with LandsD, needs to keep under review the effectiveness of the Funding Scheme and enhance publicity as and when needed with a view to making better use of such VGSs suitable for STT use (paras. 4.15 to 4.17).

20. ***Inadequacies in site management of some VGSs suitable for STT use.*** Between October and December 2019, Audit conducted site visits to 17 VGSs suitable

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for STT use with land areas of over 1 ha each, and noted inadequacies in management of some sites, including: (a) broken fences; (b) gates at the entrance opened/unlocked; (c) illegal dumping of waste; and (d) suspected unauthorised occupation of land for vehicle parking. In Audit's view, there is scope for LandsD to take measures to improve the site management of VGSs suitable for STT use (paras. 4.23 and 4.24).

Audit recommendations

21. **Audit recommendations are made in the respective sections of this Audit Report. Only the key ones are highlighted in this Executive Summary. Audit has *recommended* that the Director of Lands should:**

Granting and renewal of STTs

- (a) **strengthen measures to ensure that adequate and timely actions are taken by LandsD staff in following up the granting of STT sites, including the processing of STT applications and ensuring the fulfilment of the related tenancy conditions for granting the STT (para. 2.16(a));**
- (b) **consider setting a time target for processing STT applications (para. 2.16(b));**
- (c) **provide guidelines for processing applications involving applicants with no capacity to sign tenancy agreements and handling STT applications with lack of policy support from the relevant policy bureaux/departments (para. 2.16(c));**
- (d) **consider providing further guidelines on demanding deposits from non-profit-making or charitable organisations for STTs involving erection of permitted structures (para. 2.16(e));**
- (e) **consider setting a time frame for publishing tenancy information of all STTs granted on GeoInfo Map (para. 2.16(f));**
- (f) **ensure that LandsD staff:**

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- (i) analyse the reasons for allowing the same tenants to continue their STTs for a long time (para. 2.25(a)(i)); and
- (ii) ascertain whether the statutory planning requirements regarding temporary or short-term uses of land are met (para. 2.25(a)(ii));
- (g) ensure that site inspections are conducted for rental review purpose in accordance with LandsD guidelines (para. 2.25(b));

Monitoring of tenancy conditions

- (h) take measures to ensure that LandsD staff conduct site inspections as required and improve their effectiveness (para. 3.5);
- (i) strengthen enforcement actions against breaches of STT conditions (para. 3.12(a));
- (j) ensure the completeness and accuracy of STT information in TIS (para. 3.19(a));
- (k) make better use of information technology (e.g. TIS or other related computer systems) for providing management information for monitoring the management of STTs (para. 3.19(b));

Management of VGSs suitable for STT use

- (l) make continued efforts to ensure the completeness and accuracy of lists of VGSs suitable for STT use and early complete the reviews on suitability for STT use of the sites identified by Audit (para. 4.11(a) and (b));
- (m) improve the documentation of the selection criteria for VGSs suitable for STT use as endorsed by DRBs and the decisions of DRBs on the suitability of VGSs for STT use (para. 4.11(c));

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- (n) **make better use of information technology to record information of VGSs suitable for STT use with a view to enhancing the provision of management information for monitoring purposes (para. 4.11(d));**
 - (o) **consult the B/Ds concerned on applications for temporary use of VGSs suitable for STT use and reserved for development, and fully explore with them possible ways of addressing their concerns in considering applications (para. 4.18(a) and (b)); and**
 - (p) **take measures to improve the site management of VGSs suitable for STT use (para. 4.32(a)).**
22. **Audit has also *recommended* that the Secretary for Development should, in collaboration with the Director of Lands, keep under review the effectiveness of the Funding Scheme and enhance publicity as and when needed with a view to making better use of VGSs suitable for STT use and of no general commercial interest to the public by NGOs (para. 4.19).**

Response from the Government

23. The Secretary for Development and the Director of Lands accept the audit recommendations.

PART 1: INTRODUCTION

1.1 This PART describes the background to the audit and outlines the audit objectives and scope.

Background

1.2 The Lands Department (LandsD) is the land administrative agency (Note 1) of the Government. According to LandsD, in terms of land status, land within the territory of Hong Kong (about 110,700 hectares (ha) as of September 2019) may be:

- (a) disposed of by land grant (e.g. land lease) for private developments;
- (b) permanently or temporarily allocated by land allocation to government bureaux/departments (B/Ds) for various government uses (e.g. government premises); or
- (c) occupied under other land instruments (e.g. by short term tenancy (STT — see para. 1.4) or Vesting Order (Note 2)).

Any remaining land is broadly termed unleased and unallocated government land.

1.3 According to LandsD, unleased and unallocated government land covered a vast range of land which may not have potential for temporary uses, including:

- (a) land occupied by public infrastructure or facilities under management and/or maintenance by various government departments without any formal land allocation (e.g. country parks, roads and public transport

Note 1: *Being a land administrative agency, LandsD is mainly responsible for land disposal and transaction, allocation of land, development control and compliance under leases and other land instruments, land acquisition and clearance, as well as land enforcement and maintenance.*

Note 2: *A Vesting Order is a means of vesting the control and management of government land, typically to statutory bodies, to meet specific policy objectives.*

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interchanges). As of September 2019, the area of such land was about 57,300 ha (88% of the unleased and unallocated government land of 65,430 ha);

- (b) land with man-made features such as reinforced slopes, retaining walls, accesses, staircases, surface drains, etc.;
- (c) land in undisturbed natural terrain, hillside slopes or virgin land etc. that does not require management or maintenance; and
- (d) intermingling or narrow strips of land in between developed land parcels.

1.4 For sites on unleased and unallocated government land with possible potential for temporary uses, if there are no relevant competing demands from B/Ds, they will be made available for STT use by parties outside the Government. According to LandsD, as of September 2019, LandsD managed:

- (a) 5,582 STTs with a total land area of 2,411 ha; and
- (b) 955 vacant government sites (VGSs) suitable for STT use with a total land area of 192 ha (comprising 92 sites (69 ha) of general commercial interest and 863 sites (123 ha) of no general commercial interest to the public — see para. 1.6(a) and (b)) (Note 3).

Granting and renewal of STTs

1.5 According to LandsD, the policy objectives relating to STTs are to:

- (a) ensure temporary beneficial use of the land with consequential reduction in the costs of preventing sites from unlawful occupation or creating environmental/health problems;
- (b) obtain revenue from what would otherwise be idle resources; and

Note 3: *According to LandsD, as of September 2019, apart from the 955 VGSs suitable for STT use, LandsD also managed 653 VGSs not suitable for STT use.*

- (c) establish a system of temporary tenure which can be administered easily, fairly and cost effectively.

1.6 According to LandsD, STTs are granted by LandsD by means of the following:

- (a) ***Open tender.*** Sites of general commercial interest to the public (including those with specific uses supported by or acceptable to relevant B/Ds) are granted through open tender (Note 4) and full market rent will be charged. Their use includes, for example, fee-paying public car parks (see Photograph 1 for an example) and storage of goods;
- (b) ***Direct grant (for community, institutional or non-profit-making uses).*** With policy support provided by the relevant policy bureaux/departments, sites of no general commercial interest to the public may be granted directly to particular organisations or bodies for community, institutional or non-profit-making uses that support specific policy objectives. Their use includes, for example, utilities, works area (Note 5), education, religious and sports (see Photograph 2 for an example). Nominal/concessionary rent will be charged for such STTs if further policy support to such nominal/concessionary rent is provided by the relevant policy bureaux/departments. Otherwise, full market rent will be charged; and

Note 4: *Sites of specific uses to meet policy objectives (e.g. recycling of municipal solid waste) may be granted through restricted tender.*

Note 5: *Works areas were granted to, for example, the MTR Corporation Limited for railway projects and the Hong Kong Housing Authority for public housing projects.*

Photograph 1

STT site used as a fee-paying public car park



Source: LandsD records

Photograph 2

STT site used by a sports association



Source: LandsD records

- (c) **Direct grant (for private use).** Such direct grant does not require policy support and covers the following:
- (i) sites of no general commercial interest to the public may be granted directly to individuals or organisations for private use (e.g. private garden or guardhouse) upon receiving applications, subject to conditions (see Note 16 to para. 2.4(b)); and
 - (ii) it is the Government's policy to regularise unauthorised occupation of government land (Note 6) through STTs subject to fulfilment of specific criteria (Note 7) and convert government land licences (GLLs) (Note 8) to STTs.

Full market rent will be charged for the above STTs.

1.7 LandsD will take into account the timetable for the long-term use and development of the sites in determining the duration of STTs. In general, STTs are granted for a fixed term of a duration ranging from one year to five years and thereafter on a periodic (e.g. quarterly or monthly) basis. With policy justifications,

Note 6: *According to LandsD, appropriate land control actions (i.e. clearance and prosecution) should be taken in accordance with the Land (Miscellaneous Provisions) Ordinance (Cap. 28) against unauthorised occupation of government land. Land control actions will normally be withheld upon receipt of STT application for regularisation. If the regularisation application is rejected, LandsD will resume land control actions at a designated time frame determined according to the land control priorities of each case.*

Note 7: *According to LandsD: (a) if the government land being occupied without authorisation is incapable of reasonable separate alienation and is not required for other development in the near future, and an application for regularising its unauthorised occupation through the issue of a new STT is not violating other existing government policies, the District Lands Offices of LandsD (see para. 1.12) may consider approving the application to regularise the unauthorised occupation; (b) this measure is a pragmatic way of resolving the problem of unauthorised occupation of unleased land and obviate the need for deploying considerable manpower in conducting inspections to prevent the re-occupation of such land; and (c) it would not accept any application for regularisation of new unauthorised occupation commencing on or after 28 March 2017.*

Note 8: *GLLs were issued to regularise squatters in the rural areas of the New Territories or for other specific purposes in the past. According to LandsD, GLLs are rarely issued nowadays.*

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a longer term of up to seven years may be granted. If upon expiry of the fixed term or the first 3 years (whichever is the later), the sites concerned are not immediately required for permanent or other temporary uses within 3 years:

- (a) for STTs granted by tender (see para. 1.6(a)), they will usually be re-tendered for another fixed term (together with a periodic term thereafter); and
- (b) for STTs by direct grant (see para. 1.6(b) and (c)), they will, in general, continue on a monthly or quarterly basis.

1.8 An STT may be terminated by the Government by giving 3 months' notice or the prescribed notice period stated under the terms of the tenancy agreement if the site is required for its long-term planned use.

1.9 STTs granted by LandsD from 2014 to 2018 are shown in Table 1. For the five years from 2014-15 to 2018-19, annual rental income from STTs increased from \$1,349 million in 2014-15 to \$1,575 million in 2018-19.

Table 1

**STTs granted by LandsD
(2014 to 2018)**

Way of granting	No. of STTs (land area) (Note 1)				
	2014	2015	2016	2017	2018
Open tender	54 (37 ha)	60 (20 ha)	57 (25 ha)	43 (20 ha)	57 (23 ha)
Direct grant (for community, institutional or non-profit-making uses)	39 (23 ha)	18 (6 ha)	37 (1,715 ha) (Note 2)	29 (25 ha)	22 (10 ha)
Direct grant (for private use)	147 (4 ha)	144 (12 ha)	132 (4 ha)	161 (8 ha)	101 (1 ha)
Total	240 (64 ha)	222 (38 ha)	226 (1,744 ha)	233 (53 ha)	180 (34 ha)

Source: LandsD records

Note 1: The same STT site might be granted more than once during the years 2014 to 2018 (e.g. retendering of STT site upon expiry of the tenancy term).

Note 2: STTs granted in 2016 included sites with area of 1,640 ha to the Airport Authority Hong Kong for use as works site of the Three-runway System and 50 ha to an association for a special camping event held during the year.

Monitoring of STTs

1.10 STTs are granted to tenants for specific uses as stipulated in the tenancy agreements. According to LandsD, site inspections are carried out to ascertain if there are breaches of tenancy conditions. Upon detection of tenancy breaches, depending on the severity of breaches, enforcement actions (including warning, issuing a Notice-to-quit (Note 9) and taking action to recover possession of the site) may be taken as appropriate.

Note 9: A Notice-to-quit serves to terminate an STT legally and require the tenant to quit and return the area possessed under the STT back to LandsD at a designated date.

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Funding scheme to support the use of VGSs suitable for STT use by non-governmental organisations

1.11 The Financial Secretary announced in the 2018-19 Budget Speech that \$1 billion would be set aside to set up the “Funding Scheme to Support the Use of Vacant Government Sites by Non-Government Organisations” (hereinafter referred to as the Funding Scheme). The Funding Scheme subsidises the costs of basic works of eligible projects for user organisations to make better use of VGSs suitable for STT use and of no general commercial interest to the public (see para. 1.6(b)). After the approval of the Finance Committee of the Legislative Council in January 2019, the Development Bureau (DEVB) has launched the Funding Scheme since February 2019. Applicants of the Funding Scheme should be non-governmental organisations (NGOs) which have obtained in-principle approval by LandsD for use of the concerned VGS. Applications for assistance under the Funding Scheme would be vetted by an inter-departmental assessment committee chaired by DEVB.

Responsible divisions of LandsD

1.12 Among other duties, the Estate Management (EM) Section under LandsD’s Lands Administration Office (LAO) is responsible for policy matters on STTs and 12 District Lands Offices (DLOs) under LAO are responsible for administration of STTs (including the granting and renewal of STTs, monitoring and enforcement of conditions of STTs and keeping of site records and information). As of September 2019, there were 7 staff under EM Section and 1,523 staff under 12 DLOs (Note 10). An extract of LandsD’s organisation chart as at 30 September 2019 is at Appendix A.

Audit review

1.13 In 2006, the Audit Commission (Audit) completed a review of the administration of STTs and the results were reported in Chapter 2 of the Director of Audit’s Report No. 47 of October 2006.

Note 10: *According to LandsD, apart from management of STTs, the 7 staff under EM Section and 1,523 staff under 12 DLOs were also responsible for other duties such as processing of lease modification and land exchange cases. Breakdown of staff resources solely for the management of STTs is not available.*

1.14 In October 2019, Audit commenced a review to examine the management of STTs by LandsD. The audit review has focused on the following areas:

- (a) granting and renewal of STTs (PART 2);
- (b) monitoring of tenancy conditions (PART 3); and
- (c) management of VGSs suitable for STT use (PART 4).

Audit has found room for improvement in the above areas and has made a number of recommendations to address the issues.

Acknowledgement

1.15 Audit would like to acknowledge with gratitude the full cooperation of the staff of DEVB and LandsD during the course of the audit review.

PART 2: GRANTING AND RENEWAL OF SHORT TERM TENANCIES

2.1 This PART examines LandsD's work in granting and renewal of STTs, focusing on:

- (a) granting of STTs (paras. 2.2 to 2.17); and
- (b) renewal of STTs (paras. 2.18 to 2.26).

Granting of short term tenancies

2.2 STTs are generally granted by LandsD by means of open tender and direct grant (see para. 1.6). The 12 DLOs of LandsD are responsible for processing STT applications under their purview.

2.3 ***Procedures for granting an STT by open tender.*** According to LandsD, the general procedures for granting an STT by means of open tender are as follows (summarised in Figure 1):

- (a) ***Tender preparation.*** DLO will draft the tenancy agreement (including conditions and plans) which forms part of the tender document, and seek relevant B/Ds' comments on these documents. In general, the District Lands Conference (DLC — Note 11) or the District Lands Officer of the relevant DLO (for straightforward cases) will consider the comments received and approve the tenancy agreement;
- (b) ***Invitation of tenders.*** After the tender document, including the tenancy agreement, is vetted by the Legal Advisory and Conveyancing

Note 11: *According to LandsD guidelines, a DLC is set up by each DLO. Its terms of reference include considering, in the light of overall land policy and Land Instructions, the terms and conditions for the disposal of land. It is chaired by the Regional Assistant Director overseeing the relevant DLOs, and its membership includes the head of the relevant DLO (a District Lands Officer), other relevant officers of LandsD and representatives from various B/Ds.*

Office (LACO) of LandsD, tenders will be invited. Interested parties are required to submit a form of tender, a cheque or cashier order for the required deposit, and other necessary documents (e.g. a proposed scheme of security in case of fee-paying public car park);

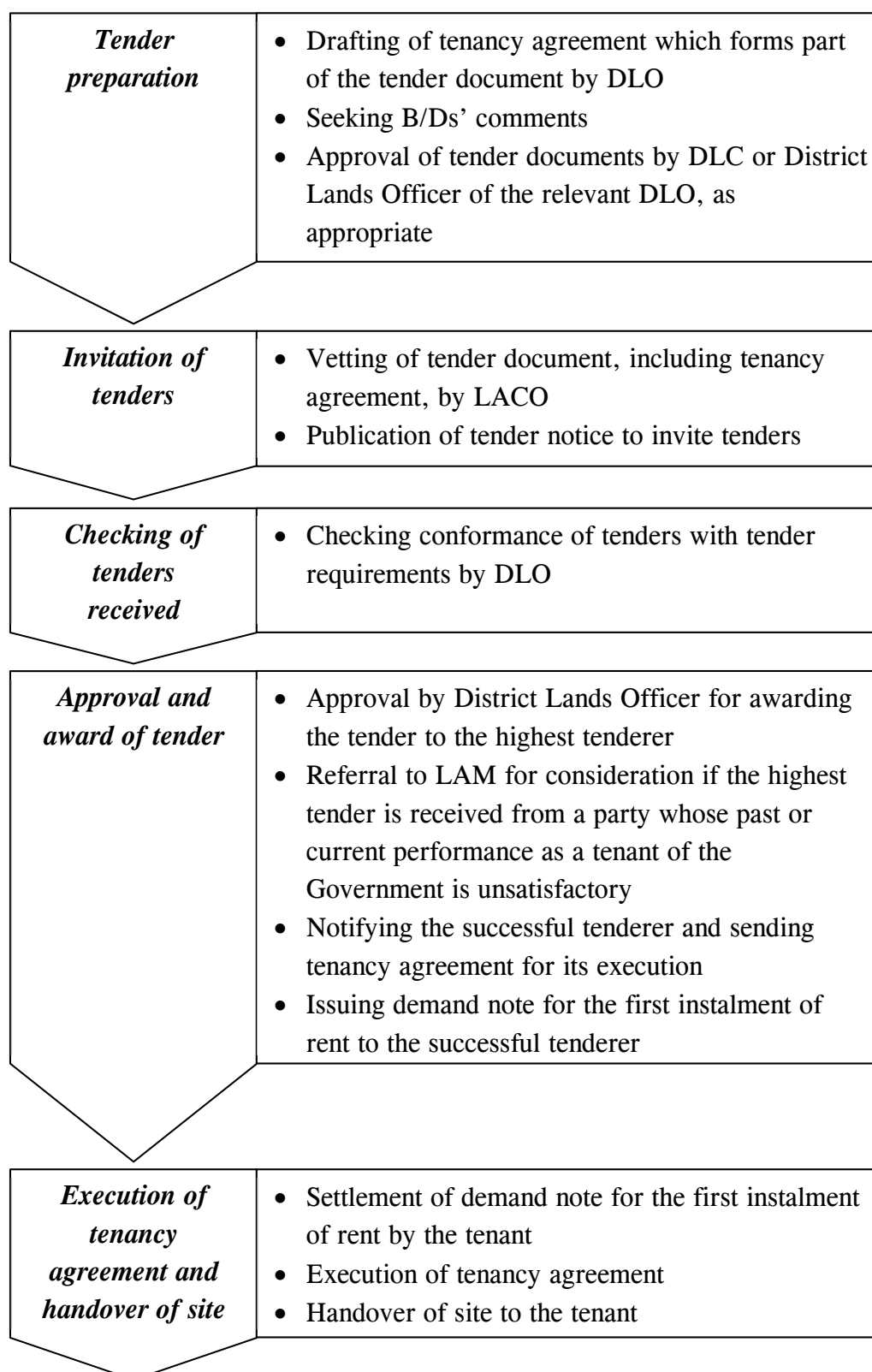
- (c) ***Checking of tenders received.*** DLO will check conformance of the tenders received (e.g. the amount stated in the cheque or cashier order) with the tender requirements;
- (d) ***Approval and award of tender.*** Under the delegated authority from the Director of Lands, the District Lands Officer of the relevant DLO may approve to award a tender to the highest tenderer. If the highest tender is received from persons, companies or their related companies (i.e. companies with substantially the same directors or shareholders) whose past or current performance as tenants of the Government is unsatisfactory, the award of tender should be considered by the Land Administration Meeting (LAM — Note 12). DLO will inform the successful tenderer of the award, send the tenancy agreement for its execution, and issue a demand note for the first instalment of rent to it. Unsuccessful tenderers will be notified of the tender results; and
- (e) ***Execution of tenancy agreement and handover of site.*** Upon receipt of the tenancy agreement executed by the tenant and settlement of the demand note for the first instalment of rent, the tenancy agreement will be executed by DLO (Note 13). The site will be handed over to the tenant on the commencement date of the STT.

Note 12: *According to LandsD guidelines, LAM is set up under LAO of LandsD. Its terms of reference are to consider specific issues affecting individual land transactions and decide the specific issues in other cases. It is chaired by one of the two Deputy Directors of LAO, and its membership includes the other Deputy Director of LAO, Assistant Director of LAO, Assistant Director(s) of LACO and Senior Estate Surveyor of Technical Information Unit of LAO.*

Note 13: *According to LandsD, before the tenancy agreement is executed by both the tenant and the Government, the written acceptance of the tender shall constitute a binding contract between the tenant and the Government.*

Figure 1

General procedures for granting an STT by open tender



Source: LandsD records

2.4 ***Procedures for granting an STT by direct grant.*** According to LandsD, the general procedures for granting an STT by direct grant for community, institutional or non-profit-making uses and private use (see para. 1.6(b) and (c)) are as follows (summarised in Figures 2 and 3 respectively):

(a) ***Application from interested party***

- (i) ***For community, institutional or non-profit-making uses.*** An interested NGO or social enterprise may apply for use of an STT site of no general commercial interest. The list of sites of no general commercial interest is compiled and published on the Government's GeoInfo Map (Note 14) and updated every two weeks (see para. 4.29). For sites other than those published on GeoInfo Map, an interested party may also approach LandsD to express its interest; and
- (ii) ***For private use.*** An interested individual/party may apply for using a VGS for private use (e.g. private garden) by approaching LandsD to express his interest;

Note 14: *GeoInfo Map is a web map service launched by the Survey and Mapping Office of LandsD to provide free public access to maps of Hong Kong, as well as the locations and related information of various public facilities and services. The list of sites for community, institutional or non-profit-making uses has been published on the GeoInfo Map since 2017. Prior to 2017, such lists were circulated to all District Offices, District Social Welfare Offices and District Councils who were encouraged to share the lists with interested NGOs to facilitate their applications for STTs of these sites.*

Granting and renewal of short term tenancies

- (b) ***Checking validity of application received.*** DLO will check the application received (Note 15). For granting of STT by direct grant for private use, DLO will also check for the fulfilment of criteria stipulated in LandsD guidelines (Note 16). If it cannot be accepted as a valid application, the applicant will be informed of the reasons at the earliest possible time;
- (c) ***Seeking B/Ds' comments and support***
 - (i) ***For community, institutional or non-profit-making uses.*** After passing the validity checking, DLO will seek B/Ds' comments and support from relevant B/Ds on the application. For an application of direct grant at nominal or concessionary rent, DLO will also seek further policy support from the relevant B/Ds; and
 - (ii) ***For private use.*** After passing the validity checking, DLO will seek B/Ds' comments. For simple and straightforward private garden STT cases, no departmental circulation is required in general. A 14-day notice will be posted at the STT site for private garden in a village to determine if any objection regarding the STT is received;

Note 15: *For example, whether the application form is properly completed and supporting documents are provided.*

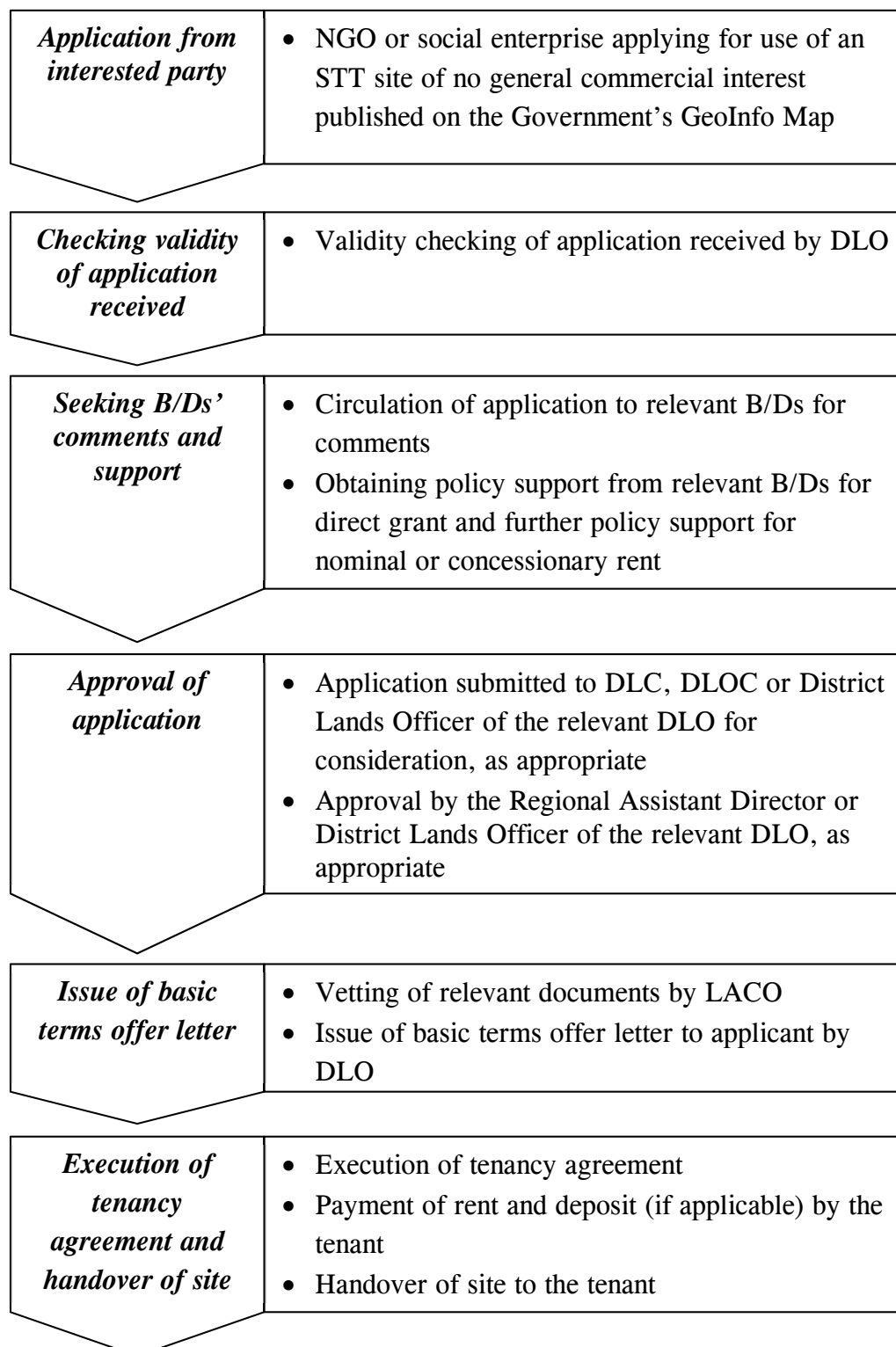
Note 16: *According to LandsD guidelines, in general, an application for direct grant may be processed or be approved provided that: (a) the government land under application is incapable of reasonable separate alienation to any parties apart from the applicant; (b) the government land under application is not required for other uses in the near future (or there is no designated long-term use); (c) the government land under application has no general commercial interest to others due to its incapability of separate alienation mentioned in item (a) above or any other reasons; and (d) the application is not for domestic purpose (i.e. habitation).*

- (d) ***Approval of application.*** The application will then be submitted to DLC, District Lands Office Conference (DLOC — Note 17) or District Lands Officer of the relevant DLO for consideration, as appropriate. Under the delegated authority from the Director of Lands, the Regional Assistant Director overseeing the relevant DLO or the District Lands Officer of the relevant DLO may approve the application, as appropriate. If the application is not approved, the applicant will be informed of the result including the reasons for rejection as appropriate;
- (e) ***Issue of basic terms offer letter.*** After the application is approved and vetting of relevant documents have been carried out by LACO, DLO will issue a basic terms offer letter (including major terms of the proposed tenancy) for the acceptance by the applicant; and
- (f) ***Execution of tenancy agreement/acceptance of basic terms offer letter and handover of site.*** In case of straightforward private garden cases, it is normally granted by way of basic terms offer letter, which forms the agreement. In other cases, DLO will arrange for execution of the tenancy agreement. The handover of site would be arranged upon execution of the tenancy agreement/acceptance of the basic terms offer letter and payment of rent and deposit (if applicable) by the applicant.

Note 17: *According to LandsD guidelines, a DLOC is set up by DLO. Its terms of reference include, among others, considering in the light of the Small House Policy and Land Instructions, straightforward STTs (e.g. garden tenancies). It is chaired by the District Lands Officer of the relevant DLO, and its membership includes District Officer, District Planning Officer, District Senior Estate Surveyor, District Land Surveyor, Chief Land Executive and Senior Land Executive.*

Figure 2

**General procedures for granting an STT by direct grant
for community, institutional or non-profit-making uses**



Source: LandsD records

Figure 3

General procedures for granting an STT by direct grant for private use

<i>Application from interested party</i>	<ul style="list-style-type: none"> • An individual/party approaching LandsD to express interest on using a VGS for private use
<i>Checking validity of application received</i>	<ul style="list-style-type: none"> • Validity checking of application received and fulfilment of criteria set out in LandsD guidelines (see Note 16 to para. 2.4(b)) by DLO
<i>Seeking B/Ds' comments and support</i>	<ul style="list-style-type: none"> • Circulation of application to relevant B/Ds for comments, as appropriate • Posting of 14-day notice at the STT site (for private garden in a village) to determine if any objection is received
<i>Approval of application</i>	<ul style="list-style-type: none"> • Application submitted to DLC, DLOC or District Lands Officer of the relevant DLO for consideration, as appropriate • Approval by the Regional Assistant Director or District Lands Officer of the relevant DLO, as appropriate
<i>Issue of basic terms offer letter</i>	<ul style="list-style-type: none"> • Vetting of relevant documents by LACO • Issue of basic terms offer letter to applicant by DLO
<i>Execution of tenancy agreement/ acceptance of basic terms offer letter and handover of site</i>	<ul style="list-style-type: none"> • Execution of tenancy agreement or acceptance of basic terms offer letter • Payment of rent and deposit (if applicable) by the tenant • Handover of site to the tenant

Source: LandsD records

Granting and renewal of short term tenancies

Long time taken for processing STT applications

2.5 Based on information in the Tenancy Information System (TIS — see para. 3.14), Audit analysed the processing time of the 1,165 STTs approved by LandsD from 2014-15 to 2018-19 (see Table 2), and noted that:

- (a) the processing time ranged from less than 1 month to 22 years, averaging 20 months; and
- (b) for 204 (18% of 1,165) STTs, the processing time was longer than 3 years.

Table 2

**Processing time of STTs
(2014-15 to 2018-19)**

Processing time	No. of STTs
1 year or less	642 (55%)
More than 1 year to 2 years	217 (19%)
More than 2 years to 3 years	102 (8%)
More than 3 years to 6 years	150 (12%)
More than 6 years to 12 years	46 (4%)
More than 12 years to 18 years	5 (1%)
More than 18 years to 22 years	3 (1%)
Total	1,165 (100%)

Source: Audit analysis of LandsD records

Remarks: Processing time refers to the time between the dates of circulation of tender documents to B/Ds for comments (for STTs granted by open tender) or the dates of STT applications (for STTs granted by direct grant), and the dates of approval of STTs.

2.6 Audit noted one case (involving processing time of 14 years) in which the DLO concerned had not taken adequate and timely actions in following up the granting of an STT site (see Case 1).

Case 1

**Adequate and timely actions not taken
in following up the granting of an STT site
(March 2003 to February 2020)**

1. In March 2003, Applicant A submitted an STT application to the then DLO/Hong Kong South (DLO/HKW&S — Note 1) for direct grant of a private garden and an access road with a total area of 314 square metres (m²) in Southern District. In June 2003, DLO/HKW&S circulated the application to relevant B/Ds for comments.

2. In September 2003, DLO/HKW&S informed Applicant A that concern over the stability conditions of adjoining slopes was raised by the then Civil Engineering Department (CEDD — Note 2), and requested Applicant A to provide further information. In January 2004, CEDD advised that it had no objection to the STT application if the applicant undertook geotechnical assessment and carried out slope upgrading works. In response to the request, Applicant A submitted relevant geotechnical assessment report to DLO/HKW&S, which referred the same to CEDD in March 2004. In April 2004, CEDD reiterated its concern on the slope condition. Upon receipt of CEDD's advice, Applicant A submitted a revised geotechnical assessment report in June 2004.

3. In July 2004, DLO/HKW&S conducted inspection of the site and found that construction works on the garden had begun. In April 2005, DLO/HKW&S sent a proposed tenancy plan to Applicant A and requested Applicant A to follow up the outstanding issues, including the programme and duration of the proposed slope upgrading works. Applicant A and DLO/HKW&S agreed on the new STT boundaries in May 2005 but Applicant A did not provide the requested information. In October 2005, Applicant A submitted an application to DLO/HKW&S for carrying out works on the slope outside the site concerned after obtaining consent from the Buildings Department.

4. In May 2006 and April 2007, Applicant A wrote to DLO/HKW&S to enquire about the status of its STT application submitted in March 2003. DLO/HKW&S did not give a reply.

Case 1 (Cont'd)

5. In September 2009, DLO/HKW&S conducted inspection of the site and found that construction works of the garden had been completed. In October 2009, DLO/HKW&S enquired whether Applicant A intended to continue with the STT application and Applicant A confirmed its intention with DLO/HKW&S in February 2010. In March 2010, DLO/HKW&S requested Applicant A to advise the completion date of the landscape garden and gate. In August 2010, DLO/HKW&S examined the STT application in detail with the available information and found that not all outstanding issues had been resolved.

6. In August 2014, Applicant A wrote to DLO/HKW&S to enquire about the status of its STT application. DLO/HKW&S did not give a reply.

7. In March 2017, the STT application submitted by Applicant A was approved. According to LandsD:

- (a) the STT application submitted by Applicant A was examined and approved by DLC in March 2017 to regularise unauthorised occupation of government land;
- (b) relevant tenancy conditions (which required the tenant to complete the outstanding slope works to the satisfaction of the Government within 1 year or other extended period subject to the approval of DLO/HKW&S) were imposed to address the concerns of CEDD; and
- (c) in August 2017, rent of some \$1.7 million (i.e. annual rent of about \$126,000) was demanded from Applicant A with retrospective effect from July 2004 (see para. 3) and was subsequently settled in September 2017.

8. According to LandsD, as of February 2020, the required slope works (see para. 7(b)) had not been completed.

Case 1 (Cont'd)

Audit comments

9. Audit noted that:

- (a) Applicant A's STT application submitted in March 2003 was approved in March 2017 (involving processing time of 14 years). The construction works of the garden had been completed before the STT application was approved (see para. 5);
- (b) DLO/HKW&S had not timely responded to enquiries raised by Applicant A (see paras. 4 and 6);
- (c) the need to address concerns over stability conditions of adjoining slopes was an issue leading to long processing time for this case. While the tenant was required to complete the outstanding slope works within 1 year as a condition for approving the STT in March 2017 (see para. 7(b)), as of February 2020 (i.e. three years later), the required slope works had not been completed. As far as could be ascertained, there was no documentary evidence showing that DLO/HKW&S had followed up the progress of the slope works with the tenant; and
- (d) LandsD had not set any time target for processing STT applications.

10. In Audit's view, LandsD needs to strengthen measures to ensure that adequate and timely actions are taken in following up the granting of STT sites, including the processing of STT applications and ensuring the fulfilment of the related tenancy conditions for granting the STT. To enhance accountability and monitoring work, there is merit for LandsD to set a time target for processing STT applications.

Source: Audit analysis of LandsD records

Note 1: The then DLO/Hong Kong South and the then DLO/Hong Kong West were merged into DLO/Hong Kong West and South (DLO/HKW&S) with effect from April 2004. For simplicity, the then DLO/Hong Kong South is also referred to as DLO/HKW&S in this Audit Report.

Note 2: The then Civil Engineering Department and the then Territory Development Department were merged into the Civil Engineering and Development Department (CEDD) with effect from July 2004. For simplicity, the then Civil Engineering Department is also referred to as CEDD in this Audit Report.

Scope for enhancing guidelines for processing STT applications

2.7 According to LandsD guidelines, STT applications received are vetted by individual DLOs. Audit selected 10 STT applications received or processed during 2014-15 to 2018-19 by 7 DLOs (Note 18) for examination. Audit noted that there was scope for enhancing LandsD guidelines in processing STT applications involving:

- (a) applicants with no capacity to sign tenancy agreements (see Case 2); and
- (b) the handling of STT applications with lack of policy support (see paras. 2.8 and 2.9).

Case 2

Scope for enhancing LandsD guidelines in handling STT applications from applicants with no capacity to sign tenancy agreements (May 2009 to August 2014)

1. In May 2009, Applicant B submitted an application to DLO/Kowloon East (DLO/KE) for STT by direct grant of a site of 1,740 m² in Kwun Tong District for the use as office premises for a term of 3 years. In July 2009, policy support was given by the relevant bureau in granting the STT to Applicant B at nominal rent.

2. In response to an enquiry made by DLO/KE in January 2010, LACO/Kowloon advised DLO/KE in February 2010 that as Applicant B was a society registered under the Societies Ordinance (Cap. 151), it was an unincorporated body and could not be regarded as a legal entity suitable to sign the tenancy agreement. Instead, the president of the society should be named as the tenant of the STT or Applicant B should be incorporated as a limited company.

Note 18: *The seven DLOs were DLO/Hong Kong East, DLO/HKW&S, DLO/Kowloon East, DLO/Kowloon West, DLO/Sai Kung, DLO/Shu Tin and DLO/Yuen Long.*

Case 2 (Cont'd)

3. In response to DLO/KE's enquiry, in May 2010, Applicant B said that it was undergoing the registration process as a limited company. In July 2011, another applicant submitted an STT application for the same site. However, the application was rejected on the grounds that the application received from Applicant B was being processed.

4. DLO/KE resumed the processing of Applicant B's application in May 2012 when Applicant B was successfully incorporated as a limited company. From 2012 to 2014, Applicant B further revised the site boundary and the use of the site (i.e. from office premises to providing amateur radio communication support services for non-profit-making activities and for the related non-profit-making training purposes). The STT was finally approved by LandsD in August 2014.

Audit comments

5. Applicant B was found lacking the capacity to sign the tenancy agreement in February 2010 after LACO/Kowloon had been consulted (i.e. some 9 months after the application was received in May 2009). DLO/KE suspended the processing of Applicant B's application for two years (from May 2010 to May 2012) as the applicant claimed that it was undergoing the registration process as a limited company (see para. 3). During this period, an application for the site was received from an interested party but was rejected due to the fact that Applicant B's application was under processing (see para. 3). In the event, the STT was approved in August 2014 (five years after Applicant B's application was received). Audit noted that LandsD had no specific guidelines on handling STT applications from applicants with no capacity to sign the tenancy agreement (including whether the applicant should be rejected right away or a grace period could be given for rectification). In Audit's view, LandsD needs to provide guidelines for processing such applications (e.g. disseminating to interested parties information relating to capacity of applicants to sign tenancy agreements to facilitate their applications).

Source: Audit analysis of LandsD records

Granting and renewal of short term tenancies

2.8 *Handling of STT applications with lack of policy support.* Audit noted that LandsD had no specific guidelines relating to the handling of STT applications with lack of policy support from the relevant policy bureaux/departments, including:

- (a) whether the applicant should be informed of the reason for lack of policy support; and
- (b) whether such application should be rejected or the applicant could be allowed to modify its proposal in order to obtain the policy support.

2.9 Audit noted that, in an STT application from Applicant C (see Table 3):

- (a) LandsD informed the applicant that the application was rejected as policy support could not be obtained from the relevant bureau; and
- (b) LandsD did not inform the applicant of the reason for lack of policy support.

In Audit's view, LandsD needs to provide guidelines for handling STT applications with lack of policy support from the relevant policy bureaux/departments.

Table 3

**Handling of an STT application from Applicant C
(April 2013 to August 2017)**

	Particulars
DLO	DLO/Sai Kung (DLO/SK)
Date of STT application	April 2013
Area of STT site	311 m ²
DLO's handling of STT application	After seeking the relevant bureau's comments (Note), DLO/SK informed Applicant C in August 2017 that the application was rejected as policy support could not be obtained from the relevant bureau. The reason was not explained.
Result of STT application	STT was not granted to Applicant C.

Source: Audit analysis of LandsD records

Note: In August 2017, the relevant bureau informed DLO/SK that while it fully appreciated the objectives of Applicant C to provide religious, education and cultural activities in the proposal, it considered that the main projects in the proposal (e.g. religious and cultural education, school homework assistance to children, extra-curricular activities and language lessons) were not for religious purpose and it was not in the position to provide policy support for the proposal.

Tenancy requirements not complied with before commencement of operation

2.10 After the approval of an STT application, a tenancy agreement will be signed by both the tenant and the Government for execution. The tenant is required to comply with the tenancy requirements.

2.11 Audit selected 10 STTs approved by the 7 DLOs (see Note 18 to para. 2.7) during 2014-15 to 2018-19 for examination and noted that in one case the tenancy requirements for fire safety were not complied with before commencement of operation (see Case 3).

Case 3

Tenancy requirements for fire safety not complied with before commencement of operation (July 2018 to September 2019)

1. In July 2018, a tender was awarded to Tenant A by DLO/Hong Kong East (DLO/HKE) for the operation of a fee-paying public car park at an STT site of 2,070 m² in Eastern District for 1 year. According to the tender award letter, possession of site would be given to Tenant A upon due execution of tenancy agreement (STT A).
2. According to the tenancy agreement:
 - (a) subject to compliance of fire service requirements as approved by the Director of Fire Services, liquefied petroleum gas cylinder wagons were permitted to be parked in the liquefied petroleum gas cylinder wagons parking area of the site; and
 - (b) approval of the Director of Fire Services should be obtained in relation to the construction of walls along the periphery of the liquefied petroleum gas cylinder wagons parking area as fire barriers by September 2018.

Case 3 (Cont'd)

3. Since the operation of car park in August 2018, public complaints on fire safety concern (e.g. inadequate fire safety measures in the car park) had been received by DLO/HKE. Warning letters had been issued to Tenant A by DLO/HKE.

4. In April 2019, DLO/HKE enquired the Fire Services Department whether Tenant A's facilities at the site complied with the fire service requirements. In May 2019, the Fire Services Department advised that the fire service facilities installed by Tenant A at the site were considered unacceptable.

5. In late May 2019, Tenant A served a notice to DLO/HKE to terminate the tenancy and the site was returned to DLO/HKE in September 2019.

Audit comments

6. While Tenant A's fire service facilities installed at site (i.e. construction of walls along the periphery of the liquefied petroleum gas cylinder wagons parking area) were considered unacceptable (see paras. 2(b) and 4), Tenant A had continued to operate the car park for one year until it served a notice to terminate the tenancy in September 2019 (see para. 5). During this operating period, the relevant fire service requirements had not been complied with. In Audit's view, LandsD needs to take measures to ensure that the tenant complies with tenancy requirements (including the related fire service requirements) before commencement of operation.

Source: Audit analysis of LandsD records

Different practices in demanding deposits from STT tenants

2.12 According to LandsD guidelines, only structures of a temporary nature should be permitted on an STT site to facilitate clearance upon termination of the tenancy agreement. The cost of removing structures erected on an STT site is taken into account in calculating the amount of deposit demanded from the tenant at the time a tenancy agreement is signed (see para. 2.10). According to LandsD guidelines, for STTs granted to non-profit-making or charitable organisations (Note 19), the requirement to pay a deposit is waived.

2.13 Audit's examination of the 10 STTs (see para. 2.11) revealed that there were different practices in demanding deposits from two tenants (Tenants B and C). Both Tenants B and C are charitable organisations which, according to LandsD guidelines, are exempt from the requirements to pay a deposit under STT. Audit noted that the two tenants were approved to erect permitted structures on the two STT sites (see Table 4). In the event, no deposit was demanded from Tenant B while a deposit of \$70,000 was demanded from Tenant C. In Audit's view, LandsD needs to consider providing further guidelines on demanding deposits from non-profit-making or charitable organisations for STTs involving erection of permitted structures.

Note 19: *Charitable organisations are exempted from tax under section 88 of the Inland Revenue Ordinance (Cap. 112).*

Table 4

Inconsistency in demanding deposits from tenants

	STT B	STT C
Tenant	Tenant B	Tenant C
DLO	DLO/KE	DLO/Shu Tin (DLO/ST)
Area of STT site	593 m ²	5,020 m ²
Permitted structure on STT site	One structure not exceeding 3-storey (see Photograph 3)	3-metre high structures and total built-over-area not exceeding 200 m ² (see Photograph 4 for one of the eight structures at the site)
Amount of deposit demanded	Waived	\$70,000

Source: Audit analysis of LandsD records

Photograph 3

The structure erected on site under STT B



Source: LandsD records

Photograph 4

One of the structures erected on site under STT C



Source: LandsD records

Need to consider setting time frame for publishing tenancy information of all STTs granted

2.14 To facilitate NGOs in identifying sites available for STT use, the list of sites of no general commercial interest has been published on the Government's GeoInfo Map since 2017 (see para. 2.4(a)(i)). Besides, with a view to enhancing transparency of land information, information of sites granted by STTs (e.g. location and rent) since 1 January 2018 has also been published on GeoInfo Map since December 2018. According to LandsD, tenancy information of STTs granted prior to January 2018 would be uploaded onto GeoInfo Map progressively.

2.15 According to LandsD records, of the 5,590 STTs managed by LandsD as of October 2019, tenancy information of only 1,333 (24%) STTs had been uploaded onto GeoInfo Map. Audit noted that LandsD did not have a time frame for publishing tenancy information of all STTs granted on GeoInfo Map. In Audit's view, to enhance the transparency of land information, LandsD needs to consider setting a time frame for publishing tenancy information of all STTs granted on GeoInfo Map.

Audit recommendations

2.16 **Audit has *recommended* that the Director of Lands should:**

- (a) **strengthen measures to ensure that adequate and timely actions are taken by LandsD staff in following up the granting of STT sites, including the processing of STT applications and ensuring the fulfilment of the related tenancy conditions for granting the STT (including the case identified by Audit in para. 2.6);**
- (b) **consider setting a time target for processing STT applications;**
- (c) **provide guidelines for processing applications involving applicants with no capacity to sign tenancy agreements and handling STT applications with lack of policy support from the relevant policy bureaux/departments;**
- (d) **take measures to ensure that the tenant complies with tenancy requirements (including the related fire service requirements) before commencement of operation;**

- (e) **consider providing further guidelines on demanding deposits from non-profit-making or charitable organisations for STTs involving erection of permitted structures; and**
- (f) **consider setting a time frame for publishing tenancy information of all STTs granted on GeoInfo Map.**

Response from the Government

2.17 The Director of Lands accepts the audit recommendations. He has said that:

- (a) LandsD will review the current instructions/guidelines and mechanisms:
 - (i) for processing of STT applications with a view to strengthening progress monitoring;
 - (ii) to incorporate an appropriate time target for processing STT applications;
 - (iii) for handling STT applications involving applicants with no capacity to sign tenancy agreements or with lack of policy support from the relevant policy bureaux/departments; and
 - (iv) for handling STT applications to ensure that the tenant complies with tenancy requirements, where applicable, before commencement of operation;
- (b) LandsD will review the current instructions/guidelines on demanding deposits from non-profit-making or charitable organisations for STTs involving erection of permitted structures; and
- (c) LandsD had uploaded information of 1,494 STTs onto GeoInfo Map as of December 2019, and will continue to update the information on a quarterly basis. LandsD's current programme aims to publish on GeoInfo Map tenancy information of all STTs granted by 2023.

Renewal of short term tenancies

Need to analyse the reasons for allowing the same tenants to continue their STTs for a long time

2.18 According to LandsD guidelines, STTs generally have a fixed (i.e. initial) term of not more than 7 years. In general, an STT may be renewed/allowed to continue on a periodic basis as follows:

- (a) for an STT granted by tender, upon expiry of the fixed term or the first 3 years (whichever is the later), if it is clearly established that the site will be available for temporary use for 3 years or more, the site will be re-tendered (Note 20). Otherwise, the STT will be allowed to continue on a periodic basis (usually monthly or quarterly) according to the terms of the tenancy agreement until the site is required for its permanent use or suitable for re-tendering;
- (b) for an STT under direct grant for community, institutional or non-profit-making uses, when the initial term has expired, the STT will continue on a monthly or quarterly basis, until the site is required for its permanent use and subject to rental review and the tenant observing the tenancy conditions. For an STT granted at nominal rent with policy support, the initial supporting B/D's policy support for continuation of the tenancy will be sought; and
- (c) for an STT under direct grant for private use, when the initial term has expired, the STT will continue on a monthly or quarterly basis, subject to rental review and the tenant observing the tenancy conditions.

Note 20: *The re-tendering exercise should be conducted within the last 6 months of the fixed tenancy term and the existing tenant is allowed to participate in it. According to LandsD, there are special circumstances that the STT sites would not be re-tendered (e.g. as requested by relevant policy bureaux/departments in order to meet specific policy objectives (e.g. port back-up uses); or for STTs granted by restricted tender to parties affected by implementation of public works, including clearance for reclamation).*

2.19 According to DEVB, temporary or short-term uses on a site should not prejudice any planned permanent development of the site. Besides, all temporary or short-term uses should comply with statutory planning requirements, as follows:

- (a) the following uses are always permitted and no planning permission is required:
 - (i) uses which are always permitted under relevant zonings (Column 1 uses) or covering Notes of the relevant statutory town plans (Note 21); or
 - (ii) temporary or short-term uses in urban and new town areas that are expected to be 5 years or less; and
- (b) the following uses are permitted upon obtaining planning permission from the Town Planning Board:
 - (i) uses that may be permitted with or without conditions on application to the Town Planning Board under relevant zonings (Column 2 uses) (see Note 21 to para. 2.19(a)(i)); or
 - (ii) temporary or short-term uses in rural areas for not more than 3 years, even such uses are not provided for in terms of the relevant statutory town plans (Note 22).

2.20 STTs generally have a fixed term of not more than 7 years (see para. 2.18) and thereafter on a periodic basis. Audit analysed the 5,590 STTs managed by

Note 21: *Statutory town plans include the Outline Zoning Plan, which is a kind of statutory plan prepared by the Town Planning Board under the Town Planning Ordinance (Cap. 131). The Outline Zoning Plan shows the land-use zonings and major road systems of individual planning scheme areas. Each Outline Zoning Plan is accompanied by a Schedule of Notes which show for a particular zone the uses always permitted (i.e. Column 1 uses) and uses that would require permission from the Town Planning Board (i.e. Column 2 uses) upon application.*

Note 22: *Open storage and port back-up uses in areas falling within certain land use zones (such as "Conservation Area", "Coastal Protection Area", "Site of Special Scientific Interest", "Other Specified Uses (Comprehensive Development and Wetland Protection Area)") are prohibited even for temporary use.*

Granting and renewal of short term tenancies

LandsD as of October 2019, and noted that for 4,565 (82% of 5,590) STTs, the tenants had remained the same for over 7 years (see Table 5). In fact, the tenants for 2,353 (42% of 5,590) STTs had remained the same for more than 20 years (up to 55 years). Audit noted that LandsD had no readily available information on the reasons for allowing the same tenants to continue their STTs for a long time and whether the statutory planning requirements were met (see para. 2.19). In Audit's view, LandsD needs to analyse the reasons and ascertain the compliance with the statutory planning requirements. There is also merit to provide the results regularly to senior management of LandsD for monitoring purpose.

Table 5

**Duration of STTs granted continuously to the same tenants
(October 2019)**

Duration	No. of STTs		
3 years or less	316	(5%)	
More than 3 years to 7 years	709	(13%)	
More than 7 years to 10 years	618	(11%)	4,565 (82%)
More than 10 years to 20 years	1,594	(29%)	
More than 20 years to 30 years	1,021	(18%)	
More than 30 years to 40 years	2,353 (42%)	1,006 (18%)	
More than 40 years to 55 years	326	(6%)	
Total	5,590	(100%)	

Source: Audit analysis of LandsD records

Scope for improvement in rental review process

2.21 According to LandsD guidelines, rents charged under STTs are generally reviewed every three years (Note 23). For STTs for regularisation of unauthorised

Note 23: *Except for STTs granted by direct grant for the use of private gardens, in which case, rental review will be carried out every 5 years.*

occupation of government land, inspections should be carried out by relevant DLOs to determine whether the tenancies should be renewed upon the rental review process. LandsD would then advise the tenant of the revised rent by issuing a rent review letter (Note 24). If the tenant does not accept the revised rent, the tenancy should be terminated.

2.22 Audit selected 5 STTs for regularisation of unauthorised occupation of government land that were renewed during 2014-15 to 2018-19 by 5 DLOs (Note 25) for examination and noted that:

- (a) one DLO (DLO/SK) had suspended all site inspections in relation to rental review for garden STT cases since October 2016 owing to competing priority. The suspension arrangement was reviewed by DLO/SK in January 2020 and had been further extended to July 2020; and
- (b) another DLO had not carried out site inspection for rental review of an STT (STT D). STT D was granted by DLO/Yuen Long (DLO/YL) to Tenant D for regularisation of unauthorised occupation of government land in February 2010. Audit found that:
 - (i) rental review of STT D was conducted by DLO/YL in February 2013, October 2015 and December 2018. As far as could be ascertained, there was no documentary evidence showing that site inspection had been conducted by DLO/YL in the three rental review exercises;
 - (ii) according to LandsD guidelines, for STTs for regularisation of unauthorised occupation of government land, inspections should be carried out by relevant DLOs to determine whether the STTs should be renewed upon the rental review process; and

Note 24: *In cases where the new rent cannot be finalised before the commencement date of the new tenancy term, it is intended that the old rent be demanded in the interim.*

Note 25: *The five DLOs were DLO/HKE, DLO/HKW&S, DLO/SK, DLO/ST and DLO/Yuen Long.*

Granting and renewal of short term tenancies

- (iii) there was no documentary evidence showing that DLO/YL had conducted inspection at the STT site for rental review purposes during 2013 to 2018.

In Audit's view, LandsD needs to take measures to ensure that site inspections are conducted for rental review purpose in accordance with its guidelines.

Need to obtain regular information about tenants' operations for determining continuation of STTs by direct grant

2.23 According to LandsD guidelines, given that STTs granted by direct grant are allowed to continue monthly or quarterly upon expiry of their initial term (see para. 2.18(b) and (c)), the justifications for approving the STT applications should be revisited at regular intervals to determine whether the justifications are still valid and the tenancies should be continued. In particular, for STT sites directly granted for non-profit-making uses, it is necessary to monitor the uses of STT sites in determining whether the tenancies should be continued.

2.24 Audit's examination of the 10 STTs (see para. 2.11) revealed that there were different practices in monitoring tenants' operations for determining continuation of STTs by direct grant. The salient points are as follows:

- (a) for an STT (STT E), which commenced in May 2017 and was directly granted to Tenant E at nominal rent for non-profit-making purposes (i.e. training venue for Chinese martial arts, dragon dance and lion dance), Tenant E was required to submit operation reports (e.g. activities organised and corresponding number of attendance) every 6 months to the policy bureau for monitoring purpose. The requirement was also incorporated into the tenancy agreement;
- (b) for another STT (STT F), which commenced in February 2016 and was directly granted to Tenant F for a term of 3 years certain (from 1 February 2016 to 31 January 2019) and thereafter quarterly at nominal rent for non-profit-making purposes (i.e. sports development centre), in September 2018, LandsD approached the Home Affairs Bureau (HAB) for its policy support for the continuation of STT F at nominal rent. In response, HAB requested Tenant F to submit operation reports for 2017 and 2018 for HAB's consideration. Audit noted that the tenancy agreement

did not require Tenant F to submit operation reports to HAB on a regular basis; and

- (c) Audit noted that, as of January 2020 (i.e. 12 months after the expiry of the 3-year fixed term of STT F), policy support from HAB was still pending. According to HAB, given the unsatisfactory utilisation rates as reflected in Tenant F's operation reports for 2017 and 2018, HAB had asked Tenant F to provide further information on site utilisation to facilitate consideration of whether policy support should be given.

In Audit's view, for STTs directly granted for non-profit-making purposes, to facilitate the relevant policy bureaux/departments' determination of whether or not policy support should be given for continuation of STTs, there is merit for LandsD to consult the relevant policy bureaux/departments on the need to obtain regular information about the tenants' operations and to incorporate this as a tenancy requirement.

Audit recommendations

2.25 Audit has *recommended* that the Director of Lands should:

- (a) **ensure that LandsD staff:**
 - (i) **analyse the reasons for allowing the same tenants to continue their STTs for a long time;**
 - (ii) **ascertain whether the statutory planning requirements regarding temporary or short-term uses of land are met; and**
 - (iii) **do so regularly with results provided to senior management for monitoring purpose;**
- (b) **ensure that site inspections are conducted for rental review purpose in accordance with LandsD guidelines; and**

Granting and renewal of short term tenancies

- (c) **consult the relevant policy bureaux/departments on the need to obtain regular information about the tenants' operations and incorporate this as a tenancy requirement for STTs directly granted for non-profit-making purposes.**

Response from the Government

2.26 The Director of Lands accepts the audit recommendations. He has said that:

- (a) LandsD will review the current instructions/guidelines to:
 - (i) ensure that the continuation of STTs meets the relevant requirements and LandsD will make use of information technology, including TIS or other related computer systems, to record relevant data for regular analysis and monitoring including by supervisors and senior management; and
 - (ii) incorporate the requirement of consulting the relevant policy bureaux/departments on the need to obtain regular information about tenants' operations. Subject to the agreement of the relevant policy bureaux/departments to monitor the use of the STT site, LandsD will incorporate this as a tenancy requirement for each direct grant STT for non-profit-making purposes. LandsD will also take enforcement action in case of irregularities on the advice of the relevant policy bureaux/departments; and
- (b) apart from reminding staff to conduct site inspections for rental review purpose in accordance with current instructions/guidelines, LandsD will also work out monitoring measures to ensure such.

PART 3: MONITORING OF TENANCY CONDITIONS

3.1 This PART examines LandsD's work in monitoring of tenancy conditions, focusing on:

- (a) site inspection programme (paras. 3.2 to 3.6);
- (b) enforcement actions against breaches of STT conditions (paras. 3.7 to 3.13); and
- (c) recording of STT information (paras. 3.14 to 3.20).

Site inspection programme

3.2 According to LandsD guidelines, in order to prevent tenants from subletting the premises, erecting unauthorised structures or extending the area of occupation into adjacent government land, it is mandatory that all STT sites have to be inspected once every 3 years (for STTs not involving private gardens) or once every 5 years (for private garden STTs). DLOs should, where practicable and staff resources permitting, consider formulating and implementing a programme for conducting site inspections at regular intervals based on the inspection priorities of STTs (including both private garden or non-private garden STTs) as follows:

- (a) for high priority cases (e.g. STTs with high risk of breach or STTs with breaches rectified in the past 12 months), inspections should be carried out annually;
- (b) for medium priority cases, inspections should be carried out randomly, with an inspection frequency generally higher than the low priority cases (i.e. meeting only the mandatory requirements — see (c)), subject to availability of resources. DLOs should have regard to the nature and type of STTs in their respective districts and other relevant factors (Note 26) in determining the criteria on how the medium priority cases were selected for inspections; and

Note 26: *Factors for consideration include individual case merits, number of problematic STT cases or cases subject to serious breaches/complaints in hand.*

Monitoring of tenancy conditions

- (c) for low priority cases (e.g. STTs granted at nominal rent or STTs with no records of breaches), the mandatory requirements should be met (i.e. once every 3 years for non-private garden STTs and 5 years for private garden STTs).

Need to conduct site inspections as required and improve their effectiveness

3.3 *Need to conduct site inspections as required.* According to LandsD records, LandsD managed a total of 5,590 STTs as of October 2019. Based on information in TIS (see para. 3.14), Audit analysed the site inspections conducted on these 5,590 STTs. As TIS did not record information on inspection priorities of STTs (i.e. high, medium or low — see also paras. 3.17(a) and 3.18), Audit could only make reference to the mandatory requirements (i.e. once every 3 years for non-private garden STTs and 5 years for private garden STTs — see para. 3.2(c)) to ascertain whether site inspections were conducted timely. Audit noted that, of the 5,590 STTs, 224 non-private garden STTs and 232 private garden STTs were granted within 3 years and 5 years respectively (and therefore not yet due for inspection under the mandatory requirements). For the remaining 5,134 STTs (i.e. 3,396 non-private garden STTs and 1,738 private garden STTs), with inspections needed under the mandatory requirements, Audit noted that:

- (a) no site inspection had been conducted for 1,409 (27% of 5,134) STTs, comprising 836 non-private garden STTs and 573 private garden STTs; and
- (b) of the remaining 3,725 (5,134 – 1,409) STTs with site inspections conducted (comprising 2,560 non-private garden STTs and 1,165 private garden STTs), the site inspections for 1,057 non-private garden STTs and 481 private garden STTs had not been conducted in compliance with the mandatory requirements (i.e. once every 3 or 5 years for these two types of STTs respectively — see Table 6). Case 4 shows that, for an STT, site inspection had not been conducted for a long time with no reasons documented.

Table 6

**Time having elapsed from date of last inspection
for 3,725 STTs with inspection conducted
(October 2019)**

Time having elapsed from date of last inspection	Non-private garden STTs (No.)	Private garden STTs (No.)	Total (No.)
1 year or less	475	84	559
More than 1 year to 2 years	569	110	679
More than 2 years to 3 years	459	107	566
More than 3 years to 5 years	482	383	865
More than 5 years to 7 years	412	316	728
More than 7 years to 9 years	157	159	316
More than 9 years to 24 years	6	6	12
Total	2,560	1,165	3,725

Source: Audit analysis of LandsD records

Case 4

**Site inspection not conducted for a long time with no reasons documented
(November 2006 to January 2020)**

1. STT G was directly granted to Tenant G for the use of a site in Yuen Long as a preserved food factory. STT G commenced in January 1976 with a fixed term of 1 year and continued quarterly thereafter.
2. The last site inspection was conducted by DLO/YL in November 2006 with no irregularity noted. As far as could be ascertained, up to January 2020, there was no documentary evidence showing that inspections had been conducted by DLO/YL after November 2006. Neither were the reasons for not conducting site inspections documented.

Monitoring of tenancy conditions

Case 4 (Cont'd)

Audit comments

3. It was unsatisfactory that DLO/YL had not conducted any site inspection for STT G since the last inspection in November 2006 (i.e. some 13 years ago), which was far below the mandatory inspection frequency of once every 3 years for non-private garden STTs. Besides, reasons for not conducting site inspections had not been documented.

Source: Audit analysis of LandsD records

3.4 ***Need to improve effectiveness of site inspections.*** According to LandsD, DLOs should conduct site inspections upon receipt of complaints. It was further stipulated in LandsD guidelines that, for special cases, site inspections should be carried out outside office hours if situation warrants. Audit noted one case in which site inspections conducted were not effective in investigating a complaint on alleged breach of tenancy conditions (see Case 5).

Case 5

Site inspections conducted not effective in investigating a complaint on alleged breach of tenancy conditions (January 2019 to April 2019)

1. STT H was directly granted to Tenant H for the use of a site in Sai Kung as a boatyard. STT H commenced in January 1976 with a fixed term of one year and continued quarterly thereafter.

2. In January 2019, DLO/SK received a complaint in relation to breaches of usage under STT H, stating that, instead of using the site as boatyard, Tenant H provided barges and jet-skis renting services on Sundays as well.

3. In response to the complaint received, DLO/SK conducted site inspections on 2 weekdays in January and April 2019. According to LandsD records, DLO/SK found no anomaly in both inspections.

Case 5 (Cont'd)

Audit comments

4. As the alleged breach related to providing barges and jet-skis renting services on Sundays, site inspections should have been carried out on Sundays instead of weekdays to improve the effectiveness in investigation of the complaint.

Source: *Audit analysis of LandsD records*

Audit recommendation

3.5 **Audit has *recommended* that the Director of Lands should take measures to ensure that LandsD staff conduct site inspections as required and improve their effectiveness (e.g. conducting inspections outside office hours if situation warrants).**

Response from the Government

3.6 The Director of Lands accepts the audit recommendation. He has said that apart from reminding LandsD staff to conduct site inspections in accordance with current instructions/guidelines and take measures to improve their effectiveness in accordance with the guidelines, LandsD will also work out monitoring measures to ensure such.

Enforcement actions against breaches of short term tenancy conditions

3.7 In general, an STT agreement contains terms and conditions (e.g. use, tenure, built-over-area and rental) which require the tenant's compliance. Any breach of STT conditions would be subject to LandsD's enforcement actions, including issuing warning letters and termination of tenancy. According to LandsD guidelines, DLOs should follow the stipulated time frames for taking enforcement actions against breaches of STT conditions (see Figure 4).

Figure 4

Enforcement actions against breaches of STT conditions

<i>First warning letter</i>	<ul style="list-style-type: none">• Issue within 7 days of date of discovery (first inspection)• Specify rectification of breaches to be completed within 28 days
<i>Second inspection</i>	<ul style="list-style-type: none">• Conduct within 7 days after the 28-day rectification period
<i>Second warning letter</i>	<ul style="list-style-type: none">• Issue within 7 days after second inspection, if the breaches are not rectified• Specify rectification of breaches to be completed within 14 days
<i>Third inspection</i>	<ul style="list-style-type: none">• Conduct within 7 days after the 14-day rectification period
<i>Termination of tenancy</i>	<ul style="list-style-type: none">• Pursue termination of tenancy if breaches of STT conditions persist

Source: Audit analysis of LandsD records

Remarks: In case the same breach (though rectified) is discovered again within 12 months, the subject DLO has the discretion to issue an immediate warning letter specifying rectification of breaches to be completed within 14 days. Inspection should be conducted within 7 days after the 14-day rectification period. If the tenant fails to rectify the breach or respond with a pragmatic and reasonable rectification schedule, the tenancy should be terminated.

3.8 Audit noted that LandsD had no readily available information regarding the enforcement actions taken against breaches of STT conditions (including warning letters issued for each site and the follow-up actions taken — see also paras. 3.17(b) and 3.18). Audit selected 20 STTs from 4 DLOs (DLO/HKW&S, DLO/SK, DLO/ST and DLO/YL — Note 27) to examine their work in this regard. Audit noted room for improvement in LandsD's enforcement actions against breaches of STT conditions (see para. 3.9).

Need to strengthen enforcement actions against breaches of STT conditions

3.9 Audit noted 2 cases in which DLOs had not taken adequate and timely enforcement actions against breaches of STT conditions (see Case 6 (for breaches related to unauthorised structures on an STT site) and Case 7 (for breach of restriction on use of an STT site)).

Case 6

**Adequate and timely enforcement action not taken
against unauthorised structures on an STT site
(October 2017 to December 2019)**

1. STT I was directly granted to Tenant I for the use of a site in Sai Kung as a private garden and vehicle parking. STT I commenced in June 2002 with a fixed term of 5.5 years and continued half-yearly thereafter.

2. In October 2017, DLO/SK conducted a site inspection and identified several unauthorised structures on or adjoining the STT site, as follows:

Unauthorised structures identified	Area (m²)
Additional porch adjoining covered carport (exceeding the permitted built-over-area by 10.8 m ²)	14.50
Additional storeroom	7.80
Additional platform with staircase	16.80
Additional porch (partly within STT area)	1.45
Total	40.55

Note 27: *The DLOs were selected from the three regional divisions under LAO, namely, Regional 1, Regional 2 and Regional 3.*

Monitoring of tenancy conditions

Case 6 (Cont'd)

3. In July 2018, DLO/SK considered that it was necessary to take enforcement actions against the irregularities found on site. However, Audit noted that as of December 2019, no enforcement action had been taken against the breaches of STT conditions.

Audit comments

4. The unauthorised structures were identified in October 2017. While DLO/SK considered it necessary to take enforcement action against the unauthorised structures in July 2018, up to December 2019 (about 17 months later), no enforcement action had been taken. In Audit's view, LandsD needs to take adequate and timely enforcement actions against unauthorised structures on STT sites.

Source: Audit analysis of LandsD records

Case 7

Adequate and timely enforcement action not taken against breach of restriction on use of an STT site (January 2002 to January 2020)

1. An STT site in the Southern District was first granted by way of restricted tender in 1988 (STT J) to Tenant J for re-settlement of operators affected by Apleichau North Reclamation. STT J commenced in November 1988 and was granted for the purpose of a marine engine workshop or a marine associated trade workshop. It had a fixed term of 3 years and continued half-yearly thereafter.

2. DLO/HKW&S's site inspection in January 2002 found that the premises at the site were used for retail shop operation, contravening the user clause of STT J (see para. 1). It issued two warning letters to Tenant J requiring the tenant to rectify the irregularities. DLO/HKW&S carried out 2 site inspections in August 2003 and July 2006 and found that the use of the premises complied with the user clause of STT J.

Case 7 (Cont'd)

3. During the 9-year period from May 2009 to May 2018, DLO/HKW&S conducted 4 site inspections (in May 2009, April 2012, August 2015 and May 2018) and found that the premises at the site were used as a retail shop, contravening the user clause of STT J (see para. 1). However, up to January 2020, no enforcement action (including issuance of warning letter) had been taken by DLO/HKW&S.

Audit comments

4. Audit considers it unsatisfactory that despite breach of restriction on use of the STT site having been identified during DLO/HKW&S's site inspections from May 2009 to May 2018, DLO/HKW&S had not taken any enforcement action. In Audit's view, LandsD needs to take adequate and timely enforcement action against breaches of STT conditions.

Source: Audit analysis of LandsD records

Long time taken in processing application for rectification of breaches of STT conditions

3.10 According to LandsD guidelines, breaches of STT conditions should normally be rectified in 1 to 3 months (Note 28). DLOs should tighten up enforcement actions on those serious breaches that are actionable under a tenancy and closely monitor the rectification progress. If the tenant fails to rectify the breaches within a reasonable time frame, the tenancy shall be terminated.

3.11 Audit's examination of the enforcement actions of the 4 DLOs (see para. 3.8) revealed one case in which the DLO had taken a long time in processing application for rectifying breach of STT conditions (see Case 8).

Note 28: *A further extension of not more than 3 months can be given, subject to agreement of a Regional Assistant Director.*

Case 8

Long time taken in processing application for rectifying breach of STT conditions (September 2011 to December 2019)

1. STT K was directly granted to Tenant K for the use of a site in Central and Western District as pleasure garden. STT K commenced in February 1997 with a fixed term of one year and continued quarterly thereafter.

2. In September 2011, DLO/HKW&S conducted a site inspection and found that a garden shed having an area of 49.4 m² exceeded the area permitted (45 m²). In November and December 2011, two warning letters were issued to Tenant K requiring rectification. The breach was found rectified by Tenant K during a site inspection by DLO/HKW&S in September 2013.

3. In October 2015, DLO/HKW&S conducted another site inspection and found that the garden shed had been enlarged to an area of 50.3 m² which exceeded the area permitted (45 m² — see para. 2). In April 2016, DLO/HKW&S issued another warning letter to Tenant K requiring rectification. In the same month, Tenant K applied for regularisation of the excessive area of the garden shed. In June 2016, DLO/HKW&S advised and Tenant K agreed that regularisation of the excessive area of the garden shed would be processed subject to the payment of administrative fee and full market rent for the excessive area of the garden shed from October 2015.

4. In September 2017, DLO/HKW&S conducted a site inspection and confirmed that the garden shed still existed. As of December 2019, the application for regularisation of the excessive area of the garden shed submitted by Tenant K three years ago (in April 2016) was still being considered by DLO/HKW&S.

Audit comments

5. In Audit's view, LandsD needs to take measures to ensure that applications for rectification of breaches of STT conditions are processed promptly and enforcement actions are taken in the event the applications are not approved.

Source: Audit analysis of LandsD records

Audit recommendations

- 3.12 **Audit has *recommended* that the Director of Lands should:**
- (a) **strengthen enforcement actions against breaches of STT conditions (including the cases identified by Audit in para. 3.9); and**
 - (b) **take measures to ensure that applications for rectification of breaches of STT conditions are processed promptly and enforcement actions are taken in the event the applications are not approved (including the case identified by Audit in para. 3.11).**

Response from the Government

- 3.13 The Director of Lands accepts the audit recommendations. He has said that:
- (a) LandsD will review the current instructions/guidelines with a view to strengthening enforcement actions including the issuance of warning letters. LandsD will also work out monitoring measures on enforcement actions taken. For Case 7 in paragraph 3.9, LandsD issued a warning letter to Tenant J on 21 February 2020; and
 - (b) apart from reminding DLOs to process applications for rectification of breach of STT conditions promptly and further review of enforcement action in accordance with the current instructions/guidelines, LandsD will also consider setting a time target for processing of applications for rectification of breaches of STT conditions.

Recording of short term tenancy information

3.14 TIS was introduced in 2009 for recording information of STTs granted by LandsD. TIS is a web-based system which could be accessed by Headquarters Section, EM Section and 12 DLOs (Note 29). TIS contains information including

Note 29: *All user accounts are given the read permission to view all DLOs' STT records.*

Monitoring of tenancy conditions

name of tenant, how it is granted, tenancy term, commencement date, rent, rent review pattern, amount of deposit, current rent and some basic conditions of each STT granted. According to LandsD guidelines, TIS should be updated by DLO staff upon:

- (a) granting of an STT;
- (b) any change made to the tenancy conditions;
- (c) conduct of a site inspection; and
- (d) termination of an STT.

Need to improve the recording of STT information in TIS

3.15 Audit selected 40 STT records (involving 7 DLOs — see Note 18 to para. 2.7) from TIS. Audit noted that STT records in TIS had errors and omissions, including date of application (3 records), date of execution (2 records), status of STT (2 records) and date of site inspection (16 records).

3.16 In Audit's view, LandsD needs to take measures to ensure the completeness and accuracy of STT information in TIS.

Making better use of information technology for providing management information

3.17 Audit noted that some important STT information was not readily available from TIS, as follows:

- (a) ***Inspection priorities.*** Inspection priorities of STTs were not readily available from TIS (see para. 3.3). According to LandsD, no such data field was available in TIS; and

- (b) ***Inspection conducted and enforcement actions taken against breaches of STT conditions identified.*** Audit noted that:
- (i) omissions were found in recording the date of site inspection in TIS (see para. 3.15); and
 - (ii) information of warning letters issued against breaches of STT conditions was not always input into TIS (Note 30).

3.18 In Audit's view, LandsD needs to take measures to make better use of information technology (e.g. TIS or other related computer systems) for providing management information for monitoring the management of STTs.

Audit recommendations

3.19 Audit has *recommended* that the Director of Lands should take measures to:

- (a) **ensure the completeness and accuracy of STT information in TIS; and**
- (b) **make better use of information technology (e.g. TIS or other related computer systems) for providing management information for monitoring the management of STTs.**

Response from the Government

3.20 The Director of Lands accepts the audit recommendations. He has said that LandsD will take steps to make use of information technology, including TIS or other related computer systems, to enhance the completeness and accuracy of STT information and management of STTs.

Note 30: *Of the 15 warning letters issued between 2011 and 2019 in respect of 8 STTs by 4 DLOs against breaches of STT conditions, information of 14 warning letters was not recorded in TIS.*

PART 4: MANAGEMENT OF VACANT GOVERNMENT SITES SUITABLE FOR SHORT TERM TENANCY USE

4.1 This PART examines LandsD's work in managing VGSs suitable for STT use, focusing on:

- (a) identification of VGSs suitable for STT use (paras. 4.3 to 4.12);
- (b) efforts in putting VGSs suitable for STT use to beneficial use (paras. 4.13 to 4.21); and
- (c) site management and disclosure of site information (paras. 4.22 to 4.33).

VGSs suitable for STT use

4.2 According to LandsD, as a matter of principle, efforts to put VGSs to short-term uses should not jeopardise the long-term development of the sites, and if there is a risk that the long-term development of the sites would be adversely affected, a careful judgment will have to be made to balance the interests. As of September 2019, LandsD managed 955 VGSs suitable for STT use (with a total land area of 192 ha), which, in general, comprised:

- (a) 92 sites (with a total land area of 69 ha) of general commercial interest to the public which were suitable to be let out for commercial uses through STT by means of open tender (see para. 1.6(a)); and
- (b) 863 sites (with a total land area of 123 ha) of no general commercial interest to the public which could be granted directly to particular organisations or bodies (e.g. NGOs) for community, institutional or non-profit-making uses that support specific policy objectives (see para. 1.6(b)).

Identification of vacant government sites suitable for short term tenancy use

4.3 LandsD Headquarters (comprising the senior management and relevant sections including EM Section and Headquarters Section) is responsible for formulating the policy and guidelines for management and disposal of VGSs, and coordinating their implementation. The 12 DLOs of LandsD are responsible for day-to-day operations in managing VGSs under their respective purview, having regard to the policy and guidelines provided by LandsD Headquarters.

4.4 According to LandsD:

- (a) proactive management is taken in putting the pool of VGSs (Note 31) to gainful STT use as far as possible;
- (b) DLOs are required to maintain a good and full record of all VGSs under their respective management for the purpose of identifying sites suitable for STT use to better monitor and utilise such sites. DLOs maintain lists of VGSs suitable for STT use in respect of sites (both with and without general commercial interest to the public) under their respective management; and
- (c) on a quarterly basis, DLOs update lists of VGSs suitable for STT use and submit the lists to the relevant District Review Boards (DRBs — Note 32) for review, the relevant Regional Assistant Directors of LandsD for monitoring and EM Section for records.

Note 31: *The pool of VGSs will change due to addition of new vacant sites (e.g. sites returned to LandsD by government departments after using as temporary works sites) and deletion of existing sites (e.g. sites granted by STTs).*

Note 32: *Each DLO runs a system of DRB with meetings chaired by the District Lands Officer (i.e. head of the DLO) to review land administration work of the district, including the work regarding VGSs.*

***Need to ensure completeness and accuracy of
lists of VGSs suitable for STT use***

4.5 ***Some VGSs suitable for STT use not included in the lists.*** Audit examination of the records of three DLOs (DLO/HKW&S, DLO/Tsuen Wan and Kwai Tsing (DLO/TW&KT) and DLO/Tai Po (DLO/TP)) as of September 2019 found that some VGSs under their management might be suitable for STT use but these sites were not included in the lists of VGSs suitable for STT use (Note 33). Audit referred these sites to the three DLOs for verification. The three DLOs informed Audit in December 2019, and January and March 2020 that:

- (a) 11 sites (with a total land area of 0.4 ha) were suitable for STT use by NGOs and would be made available for such use; and
- (b) 67 sites (with a total land area of 4.3 ha) were pending reviews on the suitability for STT use.

4.6 ***Some VGSs not suitable for STT use included in the lists.*** According to LandsD's lists of VGSs suitable for STT use, as of September 2019, 92 sites were of general commercial interest to the public suitable to be let out through STT (see para. 4.2(a)). Audit examination revealed that, of the 92 sites, 69 sites were under tendering, granting or allocation process. For the remaining 23 sites, after verification by the pertinent DLOs upon Audit's referrals, it was found that these sites should not have been included in the lists of VGSs suitable for STT use because:

- (a) 3 sites had been allocated to or would be required by other B/Ds, or under disposal process for long-term development;
- (b) 7 sites were not suitable for STT use; and
- (c) 13 sites had their suitability for STT use being explored.

Note 33: *According to the three DLOs' records as of September 2019, these VGSs were of no general commercial interest to the public but there were no remarks on whether they were suitable for STT use by NGOs.*

4.7 Audit noted that, subsequent to Audit's referrals of various VGSs to the pertinent DLOs for verification (see paras. 4.5 and 4.6), LandsD Headquarters issued a memorandum to DLOs in January 2020 to provide further guidelines on the management of the STT use of VGSs (Note 34). Given that the lists of VGSs suitable for STT use serve as an important record for monitoring and utilising such sites, Audit considers that LandsD needs to make continued efforts to ensure the completeness and accuracy of lists of VGSs suitable for STT use. LandsD also needs to early complete the reviews on suitability for STT use of the sites identified by Audit in paragraphs 4.5(b) and 4.6(c).

***Scope for improving documentation of selection criteria for
VGSs suitable for STT use and the decisions on suitability for STT use***

4.8 Audit noted that there was scope for improvement in the following areas:

- (a) ***Selection criteria for VGSs suitable for STT use not properly documented by some DLOs.*** According to LandsD, local circumstances and demand for VGSs suitable for STT use are different in each district. In selecting VGSs suitable for STT use, each DLO has its own set of criteria (Note 35) which are endorsed by its DRB (see Note 32 to para. 4.4(c)). In response to Audit's enquiries of the selection criteria adopted by the three DLOs (see para. 4.5):
 - (i) two DLOs informed Audit in January and February 2020 that they could not locate the documentation for the selection criteria endorsed by their respective DRBs; and

Note 34: *The memorandum provides more guidelines on various areas, including the identification of new VGSs (e.g. sources from which new sites may arise) and the assessment on the suitability of VGSs for STT use (e.g. examples of criteria for selecting VGSs suitable for STT use by NGOs).*

Note 35: *In May 2008, LandsD Headquarters completed a review of the criteria set by DLOs for selecting VGSs suitable for STT use and, in June 2008, informed all DLOs of the review result. All DLOs are required to take into account the review result and make additional consideration or provide more elaboration, where appropriate, when adopting the criteria for selecting a VGS suitable for STT use. In January 2020, further guidelines were issued by LandsD Headquarters (see para. 4.7).*

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- (ii) one DLO provided Audit with the selection criteria endorsed by its DRB (Note 36); and
 - (b) *Decisions of DRBs not properly documented by some DLOs.* According to LandsD guidelines, in DRB meetings, assessments on VGSs as to whether any sites are suitable for STT use (by means of open tender or direct grant — see para. 1.6) will be made and agreed. All the decisions and reasons or justifications for the identification of VGSs suitable for STT use should be properly documented for record purposes. In response to Audit's enquiries of the documentation of the decisions made by the 12 DRBs for the quarter ended 30 September 2019, as of January 2020:
 - (i) 5 DLOs informed Audit that they had not prepared minutes of meetings to document their respective DRBs' decisions;
 - (ii) 2 DLOs informed Audit that they were preparing the minutes of meetings to document their respective DRBs' decisions; and
 - (iii) 5 DLOs had documented their respective DRBs' decisions in the minutes of meetings.
- 4.9 In Audit's view, there is scope for LandsD to improve the documentation of:
- (a) the selection criteria for VGSs suitable for STT use as endorsed by DRBs; and
 - (b) the decisions of DRBs on the suitability of VGSs for STT use.

Note 36: *The selection criteria are that: (a) the STT use of a VGS should not prejudice the permanent land use as imposed in statutory plan; (b) any vacant or unoccupied government site with a land area of over 500 m² and with vehicular access would be short-listed for STT use subject to availability of resources in DLO; and (c) priority would be given to those applications with policy directives.*

Scope for making better use of information technology in monitoring VGSs suitable for STT use

4.10 According to LandsD, its Headquarters assumes the role of overall supervision and monitoring of DLOs' work to ensure compliance with the established policy and guidelines. As information relating to VGSs suitable for STT use is maintained by DLOs concerned, LandsD Headquarters needs to call regular returns (in the form of spreadsheets) from DLOs for monitoring purposes. As far as could be ascertained, LandsD Headquarters had not compiled regular management information (e.g. executive summary or highlights) on VGSs suitable for STT use for senior management's information. In Audit's view, there is merit for LandsD to make better use of information technology to record information of VGSs suitable for STT use (e.g. exploring the feasibility to incorporate information relating to VGSs suitable for STT use in TIS, which is a web-based system for recording information of STTs granted (see para. 3.14), or other related computer systems) with a view to enhancing the provision of management information for monitoring purposes.

Audit recommendations

4.11 Audit has *recommended* that the Director of Lands should:

- (a) **make continued efforts to ensure the completeness and accuracy of lists of VGSs suitable for STT use;**
- (b) **early complete the reviews on suitability for STT use of the sites identified by Audit in paragraphs 4.5(b) and 4.6(c);**
- (c) **improve the documentation of:**
 - (i) **the selection criteria for VGSs suitable for STT use as endorsed by DRBs; and**
 - (ii) **the decisions of DRBs on the suitability of VGSs for STT use; and**
- (d) **make better use of information technology to record information of VGSs suitable for STT use (e.g. exploring the feasibility to incorporate**

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information relating to VGSs suitable for STT use in TIS or other related computer systems) with a view to enhancing the provision of management information for monitoring purposes.

Response from the Government

4.12 The Director of Lands accepts the audit recommendations. He has said that:

- (a) LandsD has already fine-tuned the current instructions/guidelines on the management of the use of VGSs in January 2020 (see para. 4.7); and
- (b) LandsD will take steps to make use of information technology, including TIS or other related computer systems, to:
 - (i) monitor and ensure the completeness and accuracy of information and proper documentation of selection criteria and DRBs' decisions in respect of VGSs suitable for STT use; and
 - (ii) record relevant information of VGSs suitable for STT use and to enhance analysis and monitoring.

Efforts in putting vacant government sites suitable for short term tenancy use to beneficial use

Need to strengthen efforts in putting VGSs suitable for STT use to beneficial use

4.13 Audit noted that there was scope for strengthening efforts in putting VGSs suitable for STT use to beneficial use, as follows:

- (a) scope for improving consultation with B/Ds concerned and exploring measures for putting VGSs suitable for STT use to beneficial use (see Case 9); and
- (b) need to keep under review effectiveness of the Funding Scheme and enhance publicity (see paras. 4.14 to 4.17).

Case 9

**Scope for improving consultation with B/Ds concerned and exploring measures
for putting VGSs suitable for STT use to beneficial use
(July 2004 to January 2020)**

1. For three VGSs suitable for STT use (Sites A, A1 and A2 with land areas of 13,900 m², 4,930 m² and 4,150 m² respectively) located side by side in Lantau Island, in July 2004, upon the then Health, Welfare and Food Bureau's request, the three sites were reserved for the development of the second phase of North Lantau Hospital.

Applications for beneficial use of Sites A, A1 and A2

2. ***First application for STT use of Site A1.*** In July 2010, a religious organisation (Applicant D) submitted an STT application for Site A1 for religious and ancillary uses for a period of three to five years. In August 2010, DLO/Islands (DLO/Is) rejected Applicant D's application as there was a development plan for Site A1.

3. In January 2020, in response to Audit's enquiry, DLO/Is said that:

- (a) according to file records, Site A1 was reserved for hospital use. It was believed that the rejection of the STT application was based on such information; and
- (b) regarding the STT application, it had not made any circulation to the Food and Health Bureau (FHB) to enquire the then latest development programme for the permanent use of Site A1.

4. ***Second application for temporary use of Sites A and A1.*** In February 2013, the Transport Department submitted an application for temporary use of Sites A and A1 as a stacking area for non-franchised bus for a period of 3.5 years. DLO/Is referred the application to FHB for comments. In April 2013, FHB objected to the application on the grounds that the proposed temporary use of 3.5 years might impose constraints on the permanent use of the sites (Note 1) and there might be possible management issues concerning the road accessed by non-franchised bus to the stacking area.

Case 9 (Cont'd)

5. *Third application for STT use of Sites A, A1 and A2.* In July 2016, a sports organisation submitted an STT application for Sites A, A1 and A2 for sports use for a period of three years. DLO/Is referred the application to FHB for comments in November 2017. FHB did not agree to the application as the proposed STT term of three years would be beyond the planned commencement date of site investigation works and related minor studies of the development of the second phase of North Lantau Hospital.

Temporary use of Sites A and A1

6. Sites A and A1 have been put to temporary use as a resting place since July 2019 and a football pitch since April 2017 respectively under a co-management arrangement in which the facilities are co-managed by various B/Ds (Note 2). According to LandsD, the two sites are still available for STT application (Note 3).

Audit comments

7. Audit noted that:

- (a) DLO/Is had not consulted FHB about the then latest development programme for the permanent use of Site A1 before rejecting the first application (see para. 3(b) above);
- (b) regarding the second and the third applications, DLO/Is had consulted FHB who objected/did not agree to the applications because the proposed tenancy period might impose constraints on the permanent use of the sites and would be beyond the planned works commencement date, and there would be other management issues (see paras. 4 and 5 above). However, there was no documentary evidence showing that LandsD had explored with FHB whether its concerns could be addressed (e.g. by shortening the tenancy period); and
- (c) Sites A and A1 had been put to temporary use under the co-management arrangement since July 2019 and April 2017 respectively (see para. 6 above).

Case 9 (Cont'd)

8. With a view to putting VGSs suitable for STT use to beneficial use, in Audit's view, LandsD needs to:
- (a) consult the B/Ds concerned on applications for temporary use of VGSs suitable for STT use and reserved for development;
 - (b) fully explore with the B/Ds concerned possible ways of addressing their concerns in considering applications for temporary use of VGSs suitable for STT use and reserved for development; and
 - (c) consider using the co-management arrangement to put VGSs suitable for STT use to beneficial use as and when appropriate.

Source: Audit analysis of LandsD records

Note 1: According to FHB, a review on the development of private hospital services at Sites A and A1 was underway at that time and the sites might be required shortly depending on the result of the review.

Note 2: The construction and maintenance costs of the facilities at Sites A and A1 are funded by the Islands District Council. Upon completion, the facilities are co-managed by various B/Ds which are responsible for operational matters under their respective purview. For example, the Home Affairs Department is responsible for handling public complaints and daily maintenance of the facilities, and LandsD is responsible for handling cases involving unauthorised occupation of land.

Note 3: According to LandsD, if any alternative proposals are submitted by the public or other B/Ds in respect of Sites A and A1, it will, in consultation with the B/Ds involved in the co-management arrangement, consider whether the proposals could achieve a more gainful use of the sites to facilitate the Government as a whole to make an informed decision.

4.14 Need to keep under review effectiveness of the Funding Scheme and enhance publicity. According to DEVB, some VGSs suitable for STT use and available for community, institutional or non-profit-making uses by NGOs are subject to technical constraints, such as constraints posed by adjoining slopes, dilapidated building structures requiring substantial restoration and repair works, or inadequate infrastructural support. Currently, a prospective NGO tenant is expected to resolve these concerns and take up the costs of the capital works on its own, but the required

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efforts and financial commitment may be regarded by some to be disproportionate to the proposed non-profit-making uses or may go beyond some NGOs' financial and technical capability.

4.15 To support the use of VGSs suitable for STT use and of no general commercial interest to the public by NGOs, DEVB launched a \$1 billion Funding Scheme (see para. 1.11) in February 2019. The Funding Scheme would provide successful NGO applicants with subsidies to support the costs of basic works (e.g. slope upgrading and site formation) required to make the leased sites fit for use to take forward worthy projects for the community.

4.16 According to DEVB and LandsD:

DEVB

- (a) DEVB had made efforts in promoting the Funding Scheme (e.g. leveraging referrals from government departments, such as LandsD and the Home Affairs Department, as well as professional institutes and other relevant organisations in reaching out to interested applicants);
- (b) since the launch of the Funding Scheme in February 2019 and up to September 2019, a total of eight applications (Note 37) had been received and approved;
- (c) since the launch of the Funding Scheme in February 2019, DEVB had invited LandsD to bring up cases of STT applications in which there were particular concerns among bureaux in relation to the granting of policy support or otherwise. This would facilitate a more timely approach to be taken to discuss the applications with the concerned bureau(x) for a decisive outcome. This trial arrangement was bearing fruits in terms of taking forward a number of STT applications. DEVB was prepared to collaborate with LandsD closely in order to expedite the processing of pending STT applications, particularly those proposing beneficial uses for the community, by individual DLOs; and

Note 37: *The eight applications involved a total approved funding of \$70.3 million.*

LandsD

- (d) LandsD had provided information on approved STT applications to DEVB for consideration of funding support under the Funding Scheme.

4.17 As the Funding Scheme is a new measure to support the use of VGSs suitable for STT use and of no general commercial interest to the public by NGOs, in Audit's view, DEVB, in collaboration with LandsD, needs to keep under review the effectiveness of the Funding Scheme and enhance publicity as and when needed with a view to making better use of such VGSs suitable for STT use.

Audit recommendations

4.18 **Audit has *recommended* that the Director of Lands should, with a view to putting VGSs suitable for STT use to beneficial use:**

- (a) **consult the B/Ds concerned on applications for temporary use of VGSs suitable for STT use and reserved for development;**
- (b) **fully explore with the B/Ds concerned possible ways of addressing their concerns in considering applications for temporary use of VGSs suitable for STT use and reserved for development; and**
- (c) **consider using the co-management arrangement to put VGSs suitable for STT use to beneficial use as and when appropriate.**

4.19 **Audit has *recommended* that the Secretary for Development should, in collaboration with the Director of Lands, keep under review the effectiveness of the Funding Scheme and enhance publicity as and when needed with a view to making better use of VGSs suitable for STT use and of no general commercial interest to the public by NGOs.**

Response from the Government

4.20 The Director of Lands accepts the audit recommendations in paragraph 4.18. He has said that LandsD will:

- (a) review the current instructions/guidelines and mechanisms to ensure that the relevant B/Ds are consulted on applications for temporary use of VGSs reserved for development under their respective purview;
- (b) take steps to explore with the relevant B/Ds possible ways of addressing their concerns when considering applications for temporary use of VGSs reserved for development under their respective purview; and
- (c) take steps to explore with the concerned B/Ds on the co-management arrangement for VGSs when considering applications for temporary use of VGSs reserved for development under their respective purview with a view to putting those VGSs to beneficial use as and when appropriate.

4.21 The Secretary for Development accepts the audit recommendation in paragraph 4.19. The Director of Lands has said that LandsD will cooperate with DEVB in implementing the audit recommendation.

Site management and disclosure of site information

Inadequacies in site management of some VGSs suitable for STT use

4.22 LandsD is responsible for the site management of VGSs suitable for STT use before their granting, including fencing on site, providing guarding services or patrolling services, grass cutting and removal of rubbish and stagnant water, and clearance of illegal structures. Site management work is provided under LandsD's term contracts (Note 38).

4.23 Between October and December 2019, Audit conducted site visits to 17 VGSs suitable for STT use (with land areas of over 1 ha each) managed by eight DLOs (DLO/HKE, DLO/HKW&S, DLO/Is, DLO/TW&KT, DLO/North, DLO/TP, DLO/Tuen Mun (DLO/TM) and DLO/YL). Audit noted inadequacies in management of some sites (each of them had one or more inadequacies), as follows:

- (a) 12 (71%) sites with broken fences (see Photograph 5 for an example);
- (b) 10 (59%) sites with gates at the entrance opened/unlocked (see Photograph 6 for an example);
- (c) 2 (12%) sites with growing of long grass which would lead to pest control issues (e.g. breeding of mosquitoes) (see Photograph 7 for an example);
- (d) 7 (41%) sites with illegal dumping of waste (see Photograph 8 for an example);
- (e) 2 (12%) sites with defective government land notice boards; and

Note 38: *As of September 2019, LandsD had 18 site management term contracts, comprising 3 contracts for security guard services, 5 contracts for maintenance of vegetation and 10 contracts for clearance and minor works. These contracts are of terms of 18 to 30 months in general. According to LandsD, apart from site management services, these term contractors also provide other services such as break-in operations in connection with removal of unauthorised occupiers within unauthorised structures and tree-risk assessments.*

Management of vacant government sites suitable for short term tenancy use

- (f) 1 (6%) site with suspected unauthorised occupation of land for vehicle parking (see paras. 4.25 and 4.26).

Photographs 5 to 8

Inadequacies in site management

Photograph 5

Broken fences



Photograph 6

Gate at the entrance opened



Photograph 7

Growing of long grass



Photograph 8

Illegal dumping of waste



Source: Photographs taken by Audit staff in November/December 2019

4.24 For the VGSs suitable for STT use and with irregularities noted during Audit's site visits, Audit considers that there is scope for LandsD to take measures to improve the site management, as illustrated by site management problems at two sites (see paras. 4.25 to 4.28).

4.25 For a VGS suitable for STT use (Site B) with a land area of 32,200 m² in Tuen Mun, Audit's site visit in October 2019 found that there was suspected unauthorised occupation of land for vehicle parking (see Photograph 9). Audit examination of the records of the pertinent DLO (i.e. DLO/TM) revealed that, in March 2017 and November 2019, DLO/TM conducted site inspections and found unauthorised occupation of Site B for vehicle parking. In February and March 2020, DLO/TM informed Audit that:

- (a) no record was found for the follow-up actions on the irregularity identified in the site inspection conducted in March 2017; and
- (b) for the illegal parking problem identified in the site inspection conducted in November 2019, while DLO/TM would continue to take action to expel the vehicles parked at Site B, it had also sought assistance from the Hong Kong Police Force in December 2019. As parts of Site B were existing vehicular accesses, it was impractical to fence off the site entirely. DLO/TM would consider erecting barriers such as bollards and concrete blocks at vulnerable points to curb the illegal parking activity without obstructing the existing accesses.

Photograph 9

**Suspected unauthorised occupation of land
for vehicle parking**



*Source: Photograph taken by Audit staff on 27 October 2019
at 3:50 p.m.*

4.26 In Audit's view, LandsD needs to take timely enforcement actions against unauthorised occupation of VGSs suitable for STT use.

4.27 For a VGS suitable for STT use (Site C — with a land area of 14,900 m² located close to a residential area in Tuen Mun) visited by Audit, Audit noted that there were site management problems. The salient points are as follows:

- (a) in 2018 and 2019, DLO/TM received repeated complaints from nearby residents on site management. The complaints included broken fences, the gate at the entrance broken, trespassing for playing model planes/cars, unauthorised occupation for placing miscellaneous articles (e.g. goal posts and flags) on the site and hygiene problem caused by illegal dumping of waste;
- (b) follow-up actions (e.g. site inspections, repair works, posting notices requiring removal of miscellaneous articles placed on the site and erection

of a government land notice board) were taken by DLO/TM in about one month's time after receiving the complaints;

- (c) in view of the repeated complaints, in March 2019, DLO/TM instructed its security guard term contractor to deploy two shifts of guard service at Site C and the related guard service commenced on 1 April 2019. However, after the commencement of guard service, the gate at the entrance of Site C was still found broken on two occasions during DLO/TM's site inspections in April and October 2019; and
- (d) Audit's site visit in December 2019 found that the gate at the entrance was opened and there was illegal dumping of waste.

There were repeated complaints on the site management problems at Site C (see (a) above). While DLO/TM had taken follow-up actions on the site management problems, the problems had not yet been fully resolved (see (c) and (d) above).

4.28 In March 2020, DLO/TM informed Audit that:

- (a) the broken gate and fence were repaired and Site C was tidied up; and
- (b) DLO/TM had also issued a letter to the security guard term contractor to remind it to report to DLO/TM immediately if any irregularities were detected.

In Audit's view, LandsD needs to make continued efforts to ensure that the site management problems at Site C are timely resolved.

Need to improve disclosure of information relating to VGSs suitable for STT use

4.29 For those VGSs suitable for STT use and of no general commercial interest to the public (see para. 4.2(b)), since November 2017, LandsD has compiled and published a list of such sites (hereinafter referred to as the List of sites for NGOs) on the Government's GeoInfo Map web page (see Note 14 to para. 2.4(a)(i)). The List sets out key site information, including site location, site area, estimated available period, site condition and application status. Interested NGOs may make reference

Management of vacant government sites suitable for short term tenancy use

to the List and submit STT applications to the relevant DLOs. According to LandsD, the List would be updated every two weeks. As of September 2019, there were 863 sites on the List.

4.30 Of the 863 sites on the List of sites for NGOs as of September 2019, 351 (41%) had land areas of over 500 m² each. Audit examined the site condition information disclosed for the 351 sites and noted that:

- (a) 26 (7%) sites did not have information on site topography (i.e. whether the sites are flat land or contain slopes), while the remaining 325 (93%) sites had such information;
- (b) 238 (68%) sites did not have information on whether vegetation existed or not (i.e. whether the sites are with trees, grassland or concrete-paved), while the remaining 113 (32%) sites had such information; and
- (c) 101 (29%) sites did not have information on whether vehicular/pedestrian access existed or not, while the remaining 250 (71%) sites had such information.

4.31 In Audit's view, LandsD needs to take measures to improve the disclosure of information relating to VGSs suitable for STT use on the Government's GeoInfo Map web page (e.g. providing more comprehensive site condition information) with a view to facilitating interested parties in making STT applications.

Audit recommendations

4.32 **Audit has *recommended* that the Director of Lands should:**

- (a) **take measures to improve the site management of VGSs suitable for STT use, including:**
 - (i) **taking timely enforcement actions against unauthorised occupation of VGSs suitable for STT use; and**

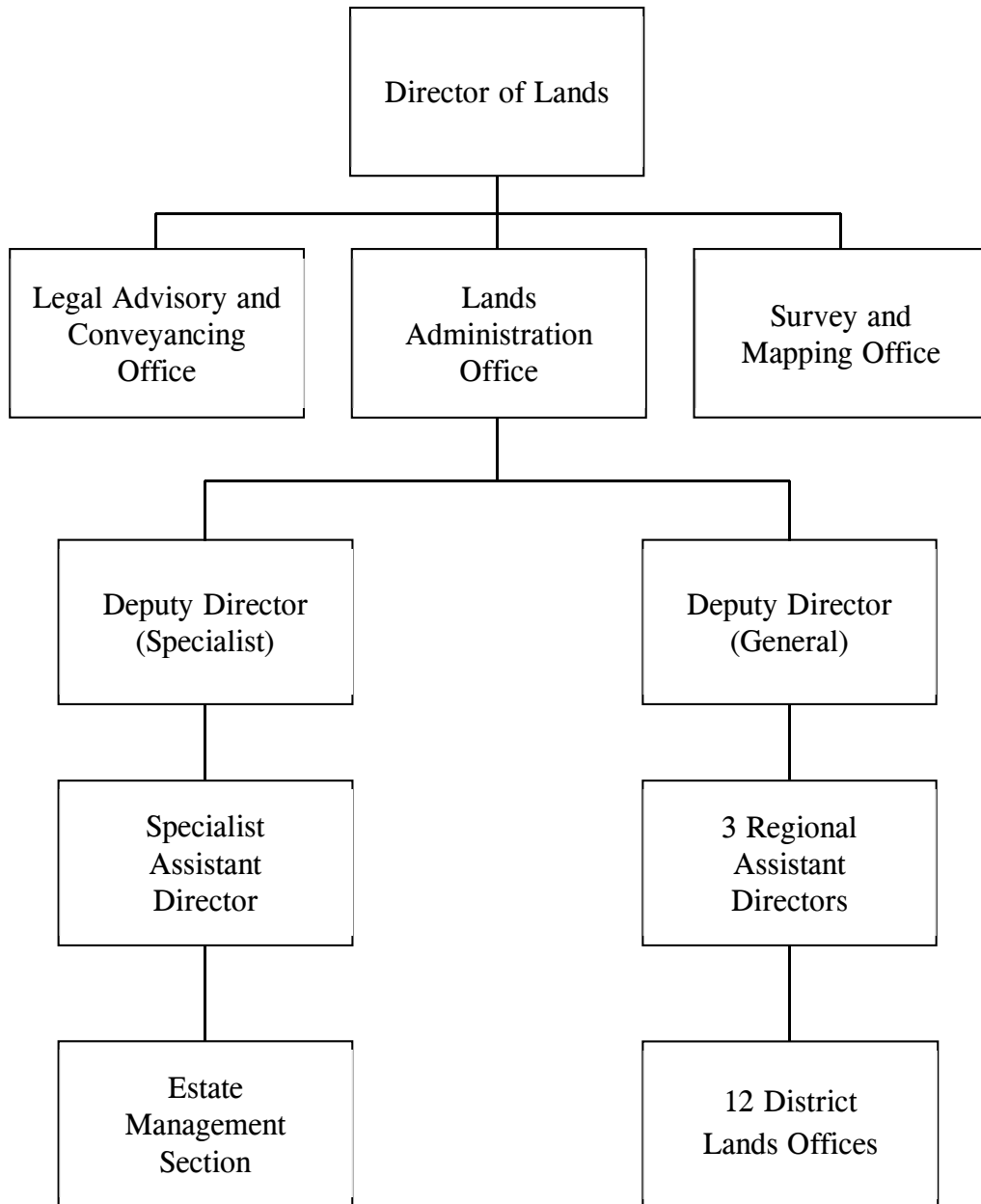
- (ii) **making continued efforts to ensure that the site management problems at Site C are timely resolved; and**
- (b) **take measures to improve the disclosure of information relating to VGSs suitable for STT use on the Government's GeoInfo Map web page (e.g. providing more comprehensive site condition information) with a view to facilitating interested parties in making STT applications.**

Response from the Government

4.33 The Director of Lands accepts the audit recommendations. He has said that LandsD will:

- (a) take measures to improve the site management of VGSs suitable for STT use, including taking timely enforcement actions against unauthorised occupation of VGSs suitable for STT use and making continued efforts to ensure that the site management problems at Site C are timely resolved, having regard to resources and priorities; and
- (b) take steps to make use of information technology, including TIS or other related computer systems, to improve the disclosure of information relating to VGSs suitable for STT use.

**Lands Department:
Organisation chart (extract)
(30 September 2019)**



Source: LandsD records

Acronyms and abbreviations

Audit	Audit Commission
B/Ds	Government bureaux/departments
CEDD	Civil Engineering and Development Department
DEVB	Development Bureau
DLC	District Lands Conference
DLO	District Lands Office
DLO/HKE	District Lands Office/Hong Kong East
DLO/HKW&S	District Lands Office/Hong Kong West and South
DLO/Is	District Lands Office/Islands
DLO/KE	District Lands Office/Kowloon East
DLO/SK	District Lands Office/Sai Kung
DLO/ST	District Lands Office/Shau Tin
DLO/TM	District Lands Office/Tuen Mun
DLO/TP	District Lands Office/Tai Po
DLO/TW&KT	District Lands Office/Tsuen Wan and Kwai Tsing
DLO/YL	District Lands Office/Yuen Long
DLOC	District Lands Office Conference
DRB	District Review Board
EM	Estate Management
FHB	Food and Health Bureau
GLL	Government land licence
ha	Hectares
HAB	Home Affairs Bureau
LACO	Legal Advisory and Conveyancing Office
LAM	Land Administration Meeting
LandsD	Lands Department
LAO	Lands Administration Office
m ²	Square metres
NGO	Non-governmental organisation
STT	Short term tenancy
TIS	Tenancy Information System
VGSs	Vacant government sites

MANAGEMENT OF SHORT TERM TENANCIES BY THE LANDS DEPARTMENT

Executive Summary

1. The Lands Department (LandsD) is the land administrative agency of the Government. Land within the territory of Hong Kong was about 110,700 hectares (ha) as of September 2019. Apart from those disposed of, allocated or occupied under other land instruments, any remaining land is broadly termed unleased and unallocated government land. According to LandsD: (a) unleased and unallocated government land (about 65,430 ha as of September 2019) covered a vast range of land which may not have potential for temporary uses. These include, for example, land occupied by public infrastructure or facilities under management and/or maintenance by various government departments without any formal land allocation (e.g. country parks, roads and public transport interchanges). As of September 2019, the area of such land was about 57,300 ha (88% of the unleased and unallocated government land of 65,430 ha); (b) for sites on unleased and unallocated government land with possible potential for temporary uses, if there are no relevant competing demands from government bureaux/departments (B/Ds), they will be made available for short term tenancy (STT) use by parties outside the Government; (c) as of September 2019, LandsD managed 5,582 STTs with a total land area of 2,411 ha and 955 vacant government sites (VGSs) suitable for STT use with a total land area of 192 ha; and (d) the rental income from STTs for 2018-19 was \$1,575 million.

2. According to LandsD, the policy objectives relating to STTs include ensuring temporary beneficial use of the land and obtaining revenue from what would otherwise be idle resources. STTs are granted by LandsD by means of open tender or direct grant. LandsD will take into account the timetable for the long-term use and development of the sites in determining the duration of STTs. In general, STTs are granted for a fixed term of a duration ranging from one year to five years and thereafter on a periodic basis. With policy justifications, a longer term of up to seven years may be granted. If upon expiry of the fixed term or the first 3 years (whichever is the later), the sites concerned are not immediately required for permanent or other temporary uses within 3 years, they will usually be re-tendered for another fixed term (for STTs granted by tender) or continue on a monthly or

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quarterly basis (for STTs by direct grant). STTs are granted to tenants for specific uses as stipulated in the tenancy agreements. Site inspections are carried out by LandsD to ascertain if there are breaches of tenancy conditions. Upon detection of tenancy breaches, enforcement actions (including taking action to recover possession of the site) may be taken as appropriate. The 12 District Lands Offices (DLOs) of LandsD are responsible for administration of STTs, including the granting and renewal of STTs, monitoring and enforcement of conditions of STTs and keeping of site records and information. The Audit Commission (Audit) has recently conducted a review to examine the management of STTs by LandsD.

Granting and renewal of short term tenancies

3. *Long time taken for processing STT applications.* Audit analysed the processing time of 1,165 STTs approved by LandsD from 2014-15 to 2018-19, and noted that: (a) the processing time ranged from less than 1 month to 22 years, averaging 20 months; and (b) for 204 (18% of 1,165) STTs, the processing time was longer than 3 years. Audit examination revealed one case in which the DLO concerned had not taken adequate and timely actions in following up the granting of an STT site, including the processing of the STT application (which took 14 years) and ensuring fulfilment of the related tenancy conditions for granting the STT. In this connection, Audit noted that LandsD had not set any time target for processing STT applications (paras. 2.5 and 2.6).

4. *Scope for enhancing guidelines for processing STT applications.* According to LandsD guidelines, STT applications received are vetted by individual DLOs. Audit noted that LandsD had no specific guidelines on: (a) handling STT applications from applicants with no capacity (e.g. an unincorporated body) to sign the tenancy agreements (including whether the applicant should be rejected right away or a grace period could be given for rectification); and (b) handling STT applications with lack of policy support, including whether the applicant should be informed of the reason for lack of policy support, and whether such application should be rejected or the applicant could be allowed to modify its proposal in order to obtain the policy support (paras. 2.7 and 2.8).

5. *Different practices in demanding deposits from STT tenants.* According to LandsD guidelines, a deposit should be demanded from the tenant when a tenancy agreement is signed to cover the cost of removing structures erected on the STT site

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upon termination of the tenancy agreement. For STTs granted to non-profit-making or charitable organisations, the requirement to pay a deposit is waived. Audit examination revealed that there were different practices in demanding deposits from two tenants which were both charitable organisations and approved to erect structures on the STT sites. In the event, no deposit was demanded from one tenant while a deposit was demanded from the other. In Audit's view, LandsD needs to consider providing further guidelines on demanding deposits from non-profit-making or charitable organisations for STTs (paras. 2.12 and 2.13).

6. ***Need to consider setting time frame for publishing tenancy information of all STTs granted.*** With a view to enhancing transparency of land information, information of sites granted by STTs since 1 January 2018 has been published on GeoInfo Map since December 2018. According to LandsD, tenancy information of STTs granted prior to January 2018 would be uploaded onto GeoInfo Map progressively. Of the 5,590 STTs managed by LandsD as of October 2019, tenancy information of only 1,333 (24%) STTs had been uploaded onto GeoInfo Map. Audit noted that LandsD did not have a time frame for publishing tenancy information of all STTs granted on GeoInfo Map. In Audit's view, to enhance the transparency of land information, LandsD needs to consider setting such a time frame (paras. 2.14 and 2.15).

7. ***Need to analyse the reasons for allowing the same tenants to continue their STTs for a long time.*** According to LandsD guidelines, STTs generally have a fixed term of not more than 7 years. According to the Development Bureau (DEVB), temporary or short-term uses on a site should not prejudice any planned permanent development of the site and should comply with statutory planning requirements. Audit analysed the 5,590 STTs managed by LandsD as of October 2019, and noted that for 4,565 (82% of 5,590) STTs, the tenants had remained the same for over 7 years. In fact, the tenants for 2,353 (42% of 5,590) STTs had remained the same for more than 20 years (up to 55 years). Audit noted that LandsD had no readily available information on the reasons for allowing the same tenants to continue their STTs for a long time and whether the statutory planning requirements were met (paras. 2.18 to 2.20).

8. ***Scope for improvement in rental review process.*** According to LandsD guidelines, rents charged under STTs are generally reviewed every three or five years. For STTs for regularisation of unauthorised occupation of government land, inspections should be carried out by relevant DLOs to determine whether the

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tenancies should be renewed upon the rental review process. Audit selected 5 such STTs for examination and found that: (a) one DLO had suspended all site inspections in relation to rental review for garden STT cases since October 2016; and (b) another DLO had not carried out site inspection in three rental review exercises of an STT granted for regularisation of unauthorised occupation of government land (paras. 2.21 and 2.22).

Monitoring of tenancy conditions

9. *Need to conduct site inspections as required.* According to LandsD guidelines, in order to prevent tenants from subletting the premises, erecting unauthorised structures or extending the area of occupation into adjacent government land, it is mandatory that all STT sites have to be inspected once every 3 years for non-private garden STTs or 5 years for private garden STTs (hereinafter referred to as mandatory requirements). Where practicable and staff resources permitting, DLOs should consider formulating and implementing a regular inspection programme based on the inspection priorities of STTs (i.e. high, medium and low priority cases). As of October 2019, LandsD managed 5,590 STTs, of which 456 STTs were not yet due for inspection under the mandatory requirements. Of the remaining 5,134 STTs with inspections needed under the mandatory requirements, Audit noted that: (a) no site inspection had been conducted for 1,409 (27% of 5,134) STTs; and (b) for the 3,725 (73% of 5,134) STTs with site inspections conducted, the site inspections for 1,538 (41% of 3,725) STTs had not been conducted in compliance with the mandatory requirements (paras. 3.2 and 3.3).

10. *Need to improve effectiveness of site inspections.* According to LandsD, DLOs should conduct site inspections upon receipt of complaints. In particular, for special cases, site inspections should be carried out outside office hours if situation warrants. Audit noted one case in which site inspections conducted by one DLO were not effective in investigating a complaint on alleged breach of tenancy conditions. While the alleged breach related to non-compliance with tenancy conditions on Sundays, site inspections were conducted on weekdays instead of Sundays (para. 3.4).

11. *Need to strengthen enforcement actions against breaches of STT conditions.* In general, an STT agreement contains terms and conditions which require the tenant's compliance. According to LandsD guidelines, DLOs should follow the stipulated time frames for taking enforcement actions against breaches of STT conditions. Audit noted 2 cases in which DLOs had not taken adequate and

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timely enforcement actions against breaches of STT conditions, including breaches related to unauthorised structures on an STT site and breach of restriction on use of an STT site. In Audit's view, LandsD needs to take adequate and timely enforcement actions against breaches of STT conditions (paras. 3.7 and 3.9).

12. *Need to improve the recording of STT information in Tenancy Information System (TIS).* TIS was introduced in 2009 for recording information of STTs granted by LandsD. Audit examination of selected STT records in TIS found that they had errors and omissions (e.g. date of application and date of site inspection). In Audit's view, LandsD needs to take measures to ensure the completeness and accuracy of STT information in TIS (paras. 3.14 to 3.16).

13. *Making better use of information technology for providing management information.* Audit noted that some important STT information was not readily available from TIS, including: (a) inspection priorities (see para. 9); (b) date of site inspection (omitted in some TIS records — see para. 12); and (c) information of warning letters issued against breaches of STT conditions (which was not always input into TIS). In Audit's view, LandsD needs to take measures to make better use of information technology for providing management information for monitoring the management of STTs (paras. 3.17 and 3.18).

Management of vacant government sites suitable for short term tenancy use

14. As of September 2019, LandsD managed 955 VGSs suitable for STT use, which, in general, comprised: (a) 92 sites (with a total land area of 69 ha) of general commercial interest to the public which were suitable to be let out for commercial uses through STT by means of open tender; and (b) 863 sites (with a total land area of 123 ha) of no general commercial interest to the public which could be granted directly to particular organisations or bodies (e.g. non-governmental organisations (NGOs)) for community, institutional or non-profit-making uses that support specific policy objectives (para. 4.2).

15. *Need to ensure completeness and accuracy of lists of VGSs suitable for STT use.* According to LandsD, DLOs maintain lists of VGSs suitable for STT use in respect of sites under their respective management. On a quarterly basis, DLOs

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update and submit such lists to the relevant District Review Boards (DRBs) for review, the relevant Regional Assistant Directors of LandsD for monitoring and the LandsD Headquarters for records. Audit examination of the records of three DLOs found that some VGSs under their management might be suitable for STT use but these sites were not included in the lists of VGSs suitable for STT use as of September 2019. After verification by the three DLOs upon Audit's referrals: (a) 11 sites (with a total land area of 0.4 ha) were found suitable for STT use by NGOs and would be made available for such use; and (b) 67 sites (with a total land area of 4.3 ha) were pending reviews on the suitability for STT use. In addition, according to LandsD's lists of VGSs suitable for STT use, as of September 2019, 92 sites were of general commercial interest to the public suitable to be let out through STT. Audit examination revealed that, for 23 of the 92 sites, after verification by the pertinent DLOs upon Audit's referrals, it was found that these sites should not have been included in the lists of VGSs suitable for STT use due to various reasons (e.g. allocated to other B/Ds). Subsequent to Audit's referrals, LandsD Headquarters issued a memorandum to DLOs in January 2020 to provide further guidelines on the management of the STT use of VGSs. Audit considers that LandsD needs to make continued efforts to ensure the completeness and accuracy of lists of VGSs suitable for STT use. LandsD also needs to early complete the reviews on suitability for STT use of the sites identified by Audit (paras. 4.4 to 4.7).

16. ***Scope for improving documentation of selection criteria for VGSs suitable for STT use and the decisions on suitability for STT use.*** According to LandsD, local circumstances and demand for VGSs suitable for STT use are different in each district. In selecting VGSs suitable for STT use, each DLO has its own set of criteria which are endorsed by its DRB. Audit noted that: (a) of the 3 DLOs selected for examination by Audit, 2 DLOs could not locate the documentation for the selection criteria endorsed by their respective DRBs; and (b) according to LandsD guidelines, in DRB meetings, assessments on VGSs as to whether any sites are suitable for STT use will be made and agreed. All the decisions should be properly documented for record purposes. However, Audit noted that as of January 2020, 5 of the 12 DLOs had not prepared minutes of meetings to document their respective DRBs' decisions made for the quarter ended 30 September 2019 (para. 4.8).

17. ***Scope for making better use of information technology in monitoring VGSs suitable for STT use.*** According to LandsD, its Headquarters assumes the role of overall supervision and monitoring of DLOs' work to ensure compliance with the established policy and guidelines. As information relating to VGSs suitable for STT use is maintained by DLOs concerned, LandsD Headquarters needs to call regular

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returns (in the form of spreadsheets) from DLOs for monitoring purposes. As far as could be ascertained, LandsD Headquarters had not compiled regular management information (e.g. executive summary or highlights) on VGSs suitable for STT use for senior management's information. In Audit's view, there is merit for LandsD to make better use of information technology to record information of VGSs suitable for STT use with a view to enhancing the provision of management information for monitoring purposes (para. 4.10).

18. ***Scope for improving consultation with B/Ds concerned and exploring measures for putting VGSs suitable for STT use to beneficial use.*** For three VGSs suitable for STT use, which had been reserved since 2004 for a development programme, there were three applications for beneficial use of the sites between 2010 and 2016. Audit noted that: (a) LandsD had not consulted the concerned bureau about the then latest development programme before rejecting the first application; and (b) regarding the second and the third applications, LandsD had consulted the concerned bureau who objected/did not agree to the applications due to various reasons (e.g. the proposed tenancy period might impose constraints on the permanent use of the sites). However, there was no documentary evidence showing that LandsD had explored with the concerned bureau whether its concerns could be addressed (e.g. by shortening the tenancy period) (para. 4.13).

19. ***Need to keep under review effectiveness of the funding scheme to support the use of VGSs suitable for STT use by NGOs.*** To support the use of VGSs suitable for STT use and of no general commercial interest to the public by NGOs, DEVB launched a \$1 billion "Funding Scheme to Support the Use of Vacant Government Sites by Non-Government Organisations" (Funding Scheme) in February 2019. The Funding Scheme would provide successful NGO applicants with subsidies to support the costs of basic works required to make the leased sites fit for use. According to DEVB, since the launch of the Funding Scheme and up to September 2019, a total of eight applications had been received and approved. LandsD had provided information on approved STT applications to DEVB for consideration of funding support under the Funding Scheme. As the Funding Scheme is a new measure, in Audit's view, DEVB, in collaboration with LandsD, needs to keep under review the effectiveness of the Funding Scheme and enhance publicity as and when needed with a view to making better use of such VGSs suitable for STT use (paras. 4.15 to 4.17).

20. ***Inadequacies in site management of some VGSs suitable for STT use.*** Between October and December 2019, Audit conducted site visits to 17 VGSs suitable

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for STT use with land areas of over 1 ha each, and noted inadequacies in management of some sites, including: (a) broken fences; (b) gates at the entrance opened/unlocked; (c) illegal dumping of waste; and (d) suspected unauthorised occupation of land for vehicle parking. In Audit's view, there is scope for LandsD to take measures to improve the site management of VGSs suitable for STT use (paras. 4.23 and 4.24).

Audit recommendations

21. **Audit recommendations are made in the respective sections of this Audit Report. Only the key ones are highlighted in this Executive Summary. Audit has *recommended* that the Director of Lands should:**

Granting and renewal of STTs

- (a) **strengthen measures to ensure that adequate and timely actions are taken by LandsD staff in following up the granting of STT sites, including the processing of STT applications and ensuring the fulfilment of the related tenancy conditions for granting the STT (para. 2.16(a));**
- (b) **consider setting a time target for processing STT applications (para. 2.16(b));**
- (c) **provide guidelines for processing applications involving applicants with no capacity to sign tenancy agreements and handling STT applications with lack of policy support from the relevant policy bureaux/departments (para. 2.16(c));**
- (d) **consider providing further guidelines on demanding deposits from non-profit-making or charitable organisations for STTs involving erection of permitted structures (para. 2.16(e));**
- (e) **consider setting a time frame for publishing tenancy information of all STTs granted on GeoInfo Map (para. 2.16(f));**
- (f) **ensure that LandsD staff:**

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- (i) analyse the reasons for allowing the same tenants to continue their STTs for a long time (para. 2.25(a)(i)); and
- (ii) ascertain whether the statutory planning requirements regarding temporary or short-term uses of land are met (para. 2.25(a)(ii));
- (g) ensure that site inspections are conducted for rental review purpose in accordance with LandsD guidelines (para. 2.25(b));

Monitoring of tenancy conditions

- (h) take measures to ensure that LandsD staff conduct site inspections as required and improve their effectiveness (para. 3.5);
- (i) strengthen enforcement actions against breaches of STT conditions (para. 3.12(a));
- (j) ensure the completeness and accuracy of STT information in TIS (para. 3.19(a));
- (k) make better use of information technology (e.g. TIS or other related computer systems) for providing management information for monitoring the management of STTs (para. 3.19(b));

Management of VGSs suitable for STT use

- (l) make continued efforts to ensure the completeness and accuracy of lists of VGSs suitable for STT use and early complete the reviews on suitability for STT use of the sites identified by Audit (para. 4.11(a) and (b));
- (m) improve the documentation of the selection criteria for VGSs suitable for STT use as endorsed by DRBs and the decisions of DRBs on the suitability of VGSs for STT use (para. 4.11(c));

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- (n) **make better use of information technology to record information of VGSs suitable for STT use with a view to enhancing the provision of management information for monitoring purposes (para. 4.11(d));**
 - (o) **consult the B/Ds concerned on applications for temporary use of VGSs suitable for STT use and reserved for development, and fully explore with them possible ways of addressing their concerns in considering applications (para. 4.18(a) and (b)); and**
 - (p) **take measures to improve the site management of VGSs suitable for STT use (para. 4.32(a)).**
22. **Audit has also *recommended* that the Secretary for Development should, in collaboration with the Director of Lands, keep under review the effectiveness of the Funding Scheme and enhance publicity as and when needed with a view to making better use of VGSs suitable for STT use and of no general commercial interest to the public by NGOs (para. 4.19).**

Response from the Government

23. The Secretary for Development and the Director of Lands accept the audit recommendations.

CHAPTER 8

**Environment Bureau
Environmental Protection Department
Architectural Services Department**

**Provision and management of
Community Green Stations**

**Audit Commission
Hong Kong
2 April 2020**

This audit review was carried out under a set of guidelines tabled in the Provisional Legislative Council by the Chairman of the Public Accounts Committee on 11 February 1998. The guidelines were agreed between the Public Accounts Committee and the Director of Audit and accepted by the Government of the Hong Kong Special Administrative Region.

Report No. 74 of the Director of Audit contains 8 Chapters which are available on our website at <https://www.aud.gov.hk>

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PROVISION AND MANAGMENT OF COMMUNITY GREEN STATIONS

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PROVISION AND MANAGMENT OF COMMUNITY GREEN STATIONS

Executive Summary

1. In early 2013, the Environment Bureau (ENB) announced a plan to develop five pilot Community Green Stations (CGSs) in different parts of the territory to promote environmental/green education and to enhance the collection network of recyclables. The development of CGSs is under the policy purview of ENB and the Environmental Protection Department (EPD). The 2014 Policy Address announced the development of a CGS in each of the 18 districts. According to ENB, the setting up of 18 CGSs would involve an estimated capital expenditure of about \$400 million, and a non-governmental organisation (NGO) would be appointed by way of tender to operate each CGS which would help green living to take root at the community level.

2. According to EPD, each CGS should preferably have a site area of no less than 1,500 square metres and should as far as practicable be conveniently located so as to facilitate visits by local residents. It should also have space for temporary storage of recyclable materials, designated area for loading/unloading of recyclable materials by collection vehicles, general office space, multi-purpose rooms and other ancillary facilities for outdoor activities for the purpose of environmental education. EPD is the project proponent for CGSs and the Architectural Services Department (ArchSD) acts as the works agent for implementation of CGS projects. As of December 2019, regarding the progress for provision of CGSs in the 18 districts: (a) a total funding of \$286.8 million had been approved for implementing 11 CGS projects and a total expenditure of \$195.5 million had been incurred. The construction works for 9 CGSs were completed between 2015 and 2018 and 2 CGSs were in progress; and (b) the remaining 7 CGSs were at planning or site selection stage.

3. According to EPD, private recyclers mainly collect recyclables of higher commercial value. CGSs will enhance environmental education and help collect different types of recyclables, especially those of low economic value (including electrical appliances, computers, glass bottles, rechargeable batteries, and compacted fluorescent lamps and fluorescent tubes) in the local community, with a view to promoting green living at the community level.

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4. EPD appoints NGOs to operate CGSs by way of open tender. As of December 2019, the operating contracts for the 9 CGSs with construction works completed had been awarded. Of these 9 CGSs, 8 CGSs commenced operation between May 2015 and October 2019 and the remaining CGS would commence operation in the second quarter of 2020. In 2018, the total operating expenditure for CGSs was about \$24 million. EPD monitors the performance of CGS operators. The Audit Commission (Audit) has recently conducted a review to examine the Government's efforts in provision and management of CGSs.

Provision of Community Green Stations

5. *Need to make continued efforts to address challenges faced in developing CGSs.* In 2014, ENB informed the Legislative Council (LegCo) Panel on Environmental Affairs that it estimated that all 18 CGSs would be completed by phases in the following three years (i.e. from 2015 to 2017). However, the estimated timeframe for completing the 18 CGSs was not met. As of February 2020, the construction works of 9 (50%) CGSs were completed and 2 (11%) CGSs in progress, and the remaining 7 (39%) CGSs were at planning or site selection stage. According to EPD: (a) the identification of a suitable site for development of a CGS in each of the 18 districts had met with great practical challenges; and (b) for the districts in which no suitable sites could be secured for development of CGSs, EPD was exploring alternative ways to expedite the delivery of the core services of CGSs. In Audit's view, EPD needs to make continued efforts to address the challenges faced in the development of the remaining CGSs and expedite actions in exploring alternative ways to deliver core CGS services for districts with no CGSs (paras. 2.4, 2.6 and 2.7).

6. *Delay in completing construction works of some CGSs.* As of December 2019, for the 9 CGSs with construction works completed, they were completed about 1.5 to 14 months later than their respective original contract completion dates. According to ArchSD, after consideration of extensions of time granted, there was delay in completion of works for 3 of the 9 CGSs, with delay ranging from 1 month to 5 months (paras. 2.11 and 2.12).

7. *Construction works carried out before approval of related drawings and not in accordance with the approved drawings.* For two CGSs (i.e. Sham Shui Po and Tuen Mun CGSs), according to EPD's requirements, there should be a storage block with a sorting area for installation and operation of a baling machine. EPD's

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area requirements for the baling machine had been incorporated into the contract as a contract requirement. According to the contract, the related drawings should also be approved by ArchSD before commencement of works and the works should be carried out according to the approved drawings. However, for the two CGSs, construction of the structural steel frame of the sorting areas in the storage blocks was completed before ArchSD's approval of the related drawings and not in accordance with the approved drawings. In the event, EPD's area requirements for installation of baling machines were not met and baling machines of a smaller size and capacity were installed at both CGSs (paras. 2.14 to 2.17).

8. *Need to draw lessons from various facility problems encountered after some CGSs had commenced operation.* Audit noted that works were carried out for tackling various facility problems after two CGSs had commenced operation: (a) for Sha Tin CGS, works were needed for tackling water leakage problems at the roofs of buildings and flushing problems in the toilets. In the event, it took more than three years to fully resolve all the problems; and (b) for Eastern CGS, works were needed for tackling stagnant water problems on roofs of buildings. In the event, it took about two years to fully resolve the problems. In Audit's view, ArchSD needs to draw lessons from the facility problems at the two CGSs with a view to improving the implementation of CGS projects (paras. 2.18 to 2.22).

Services provided by Community Green Stations

9. EPD appoints NGOs to operate CGSs by way of open tender, and the operating contracts are generally for a period of three years. According to the operating contracts, CGS operators should provide services including educational services, recyclables collection services and management of the facility. CGS operators provide three types of educational events, namely regular educational events, featured educational events and special community events. In addition, CGS operators generally collect two categories of recyclables, namely permitted recyclables (e.g. glass bottles, household appliances (including electrical and electronic equipment), computers and accessories, rechargeable batteries, and compacted fluorescent lamps and fluorescent tubes) and secondary recyclables (e.g. old clothing and textiles, books and toys) (paras. 3.2, 3.5 and 3.19).

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10. ***Minimum quantity requirements for educational events not met by some CGSs.*** According to the operating contracts, there is a minimum quantity requirement on the number of different types of educational events provided by a CGS operator in each contract year. Audit noted that, for the first contract year under the current operating contracts of two CGSs (i.e. Sha Tin and Tuen Mun CGSs), the number of outreach regular educational events and special community events held fell short of the minimum quantity requirements by 40% to 67%. According to EPD, the operators of both CGSs met unexpected difficulties in fulfilling the new requirements for these two events (which were introduced in November 2017), and it was reviewing the contract requirements for regular educational events. In Audit's view, EPD needs to early complete the review of the minimum quantity requirements for educational events, and share among CGS operators their experience in providing educational services (e.g. difficulties encountered) (paras. 3.6 to 3.8).

11. ***Need to disseminate the methodology in counting the number of regular educational events held by CGSs.*** Under the operating contracts, only those educational events fulfilling the contract requirements will be qualified for payment and counted in meeting the minimum quantity requirement. Audit noted that EPD had agreed with an operator (which operated Sha Tin and Kwun Tong CGSs) for the methodology for counting the number of regular educational events qualified for payment (through an e-mail from EPD to the operator). As the agreed methodology may also be applicable to other CGSs, in Audit's view, EPD needs to disseminate the methodology in counting the number of educational events held by CGSs to its staff and CGS operators, with a view to standardising the practice and facilitating operators' organisation of such events (paras. 3.9, 3.11 and 3.12).

12. ***Minimum tonnage requirements for recyclables collection not met by some CGSs.*** According to the operating contracts, CGS operators are required to provide recyclables collection services no less than the minimum tonnage requirements of recyclables. Audit noted that for the first contract year under the first operating contract of three CGSs (i.e. Sha Tin, Kwai Tsing and Sham Shui Po CGSs), the quantities of recyclables collected fell short of the minimum tonnage requirements by 6% to 39%. According to EPD, the three CGS operators did not meet the minimum tonnage requirements during their initial operation due to specific circumstances, and they substantially exceeded the minimum tonnage requirements in subsequent contract periods. In Audit's view, EPD needs to keep under review the minimum tonnage requirements for collection of recyclables (paras. 3.23 and 3.25).

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13. ***Scope for improving service network of CGSs.*** CGS operators collect recyclables through various channels (e.g. in-station collection at CGS and housing collection points). For the service network of the seven CGSs which commenced operation between 2015 and 2018, Audit noted that the annual summaries of monthly reports submitted by the seven CGS operators had included the coverage rate of housing collection points (ranging from 65% to 90% of the population in residential area in their districts), but had not included the calculation of the coverage rate. Neither had EPD documented its verification of the calculation. In Audit's view, EPD needs to require CGS operators to include the calculation of the coverage rate of housing collection points in the annual summaries of monthly reports for EPD's verification (paras. 3.21, 3.27 and 3.28).

14. ***Storage specification for recyclables not met by CGSs.*** According to the operating contracts, regarding storage of recyclables at CGSs, CGS operators should not store recyclables at the stations for longer than 7 days without prior consent from EPD. Audit noted that for the seven CGSs which commenced operation between 2015 and 2018, they had not met the 7-day maximum storage specification for the recyclables collected from October 2018 to June 2019. According to EPD: (a) the 7-day maximum storage specification was introduced at the very beginning of the CGS project initiative to address local community's concern that "dirty waste" might be stored at CGSs; (b) with the promotion of "clean recycling" at CGSs in these years, recyclables received and stored at CGSs were generally in good hygiene condition; and (c) EPD had given consent during regular site inspections for CGS operators to store recyclables at their storage area for longer than 7 days. In Audit's view, EPD needs to review the 7-day maximum storage specification for storage of recyclables, having regard to the latest operating conditions of CGSs and hygiene conditions of recyclables stored therein (paras. 3.29 to 3.32).

15. ***Scope for improving the counting methodology for visitors to CGSs.*** CGS operators report the number of visitors to CGSs in the monthly reports submitted to EPD. According to EPD, some CGS operators counted the number of visitors manually while other CGS operators counted the number by installing electronic counters at the boundary of CGSs. Audit considers that EPD needs to review the effectiveness of CGS operators' methodologies for counting the number of visitors with a view to enhancing the counting methodologies (para. 3.36).

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16. ***Number of visitors to some CGSs less than expected.*** In March 2016, EPD informed the Finance Committee of LegCo that the expected number of daily visitors received by each CGS could achieve 100 on average. Audit noted that of the five CGSs which commenced operation between 2015 and 2017: (a) the number of visitors received by 4 (80%) CGSs fell short of the expected number in all years with a full-year operation; and (b) the numbers of visitors to 3 CGSs decreased by 6%, 17% and 26% respectively from 2017 to 2018. According to EPD, new outreach activities had been introduced since November 2017 and it considered that the level of services provided by individual CGSs should be measured by both the number of visitors to CGSs and the number of persons served by CGSs' outreach activities. However, Audit noted that EPD had not set the expected number of persons served by the outreach activities (paras. 3.37 to 3.39).

Other management issues

17. ***Need to document the analysis of inspection results.*** To monitor the performance and operation of CGSs, EPD staff periodically conduct routine inspections of recyclables collection services, educational services and facilities of CGS. According to EPD guidelines, the inspectors should record the inspection results on the specified standard inspection forms. Audit examined the routine inspection records from January to June 2019 for the six CGSs (which commenced operation between 2015 and September 2018) and noted that, of the 298 inspections recorded on inspection forms, a total of 235 observations were found in 146 inspections and some observations were frequently found during routine inspections. According to EPD, the CGS team had shared latest inspection observations at regular team meetings and followed up on observations of a recurrent nature. However, Audit noted that EPD had not documented the analysis of the observations found (paras. 4.2 to 4.4 and 4.8).

18. ***Scope for enhancing the reporting and vetting of recyclables collected and dispatched.*** CGS operators are required to report the approximate weights of permitted and secondary recyclables collected and dispatched in the monthly reports. Audit examined the monthly reports of the seven CGSs (which commenced operation between 2015 and 2018) since contract commencement dates and up to June 2019 for the cumulative weights of recyclables collected and dispatched and noted that for some types of permitted and secondary recyclables, there were significant differences between the cumulative weights of recyclables collected and dispatched. According to EPD, the reasons for the significant differences included: (a) the dispatched

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quantities of permitted recyclables also included those unused secondary recyclables and materials collected which could not be re-distributed or donated within a reasonable time period. The operating contracts allowed EPD to designate other recyclables as permitted recyclables and EPD had given consent from time to time for CGS operators to turn some of the secondary recyclables collected into permitted recyclables; (b) free distribution of significant quantities of secondary recyclables collected through flea markets set up by some CGS operators were not included in the dispatched quantities in the monthly reports; and (c) there was a surge of the quantities of certain types of permitted and secondary recyclables stored at CGSs as at June 2019. Audit considers that there is scope for enhancing the reporting by CGS operators and vetting by EPD with a view to providing a better way for monitoring the flow of recyclables and whether the recyclables are properly handled (paras. 4.13 to 4.16).

19. *Delay in submission of reports and audited financial statements.* According to the operating contracts, CGS operators are required to submit to EPD monthly reports, annual summaries of monthly reports and annual audited financial statements. Audit noted that for some CGSs, there was delay in submission of these reports and audited financial statements. According to EPD, while there was an operational need to have early submission of regular reports, some of the supporting information would not be available within the report submission timeline. In view of the practical circumstances, EPD would review the existing arrangements to strike a balance. In Audit's view, EPD needs to expedite actions in reviewing the existing reporting requirements for CGS operators and remind CGS operators to comply with the contract requirements for timely submission of audited financial statements (paras. 4.17 to 4.19).

20. *Need to share experience for operation of CGSs.* As of December 2019, seven CGSs had already been in operation for over one to four years. Audit noted that EPD had not promulgated any good practice guide to CGS operators. In Audit's view, EPD needs to consider promulgating good practices identified over the years for sharing among CGS operators with a view to improving the services of CGSs (para. 4.24).

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Audit recommendations

21. Audit recommendations are made in the respective sections of this Audit Report. Only the key ones are highlighted in this Executive Summary. Audit has *recommended* that the Director of Environmental Protection should:

Provision of CGSs

- (a) make continued efforts to address the challenges faced in the development of the remaining CGSs (including identification of suitable sites) and expedite actions in exploring alternative ways to deliver core CGS services for districts with no CGSs (para. 2.7);

Services provided by CGSs

- (b) early complete the review of the minimum quantity requirements for educational events, having regard to CGS operation and the need of local residents for such services (para. 3.15(a));
- (c) share among CGS operators their experience in providing educational services (e.g. difficulties encountered) with a view to facilitating them to provide such services (para. 3.15(b));
- (d) disseminate the methodology in counting the number of educational events held by CGSs to EPD staff and CGS operators, with a view to standardising the practice and facilitating CGS operators' organisation of such events (para. 3.15(c));
- (e) keep under review the minimum tonnage requirements for collection of recyclables, having regard to the operation of and difficulties encountered by CGS operators (para. 3.33(a));
- (f) require CGS operators to include the calculation of the coverage rate of housing collection points in the annual summaries of monthly reports for EPD's verification (para. 3.33(c));

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- (g) review the 7-day maximum storage specification for storage of recyclables, having regard to the latest operating conditions of CGSs and hygiene conditions of recyclables stored therein (para. 3.33(e));
- (h) review the effectiveness of CGS operators' methodologies for counting the number of visitors with a view to enhancing the counting methodologies (para. 3.44(a));
- (i) review the expected number of persons served by both on-site and outreach activities of CGSs with a view to fully reflecting the service level of CGSs and monitor the achievement of the expected number as adopted after the review (para. 3.44(b));

Other management issues

- (j) document the analysis of the observations found during inspections with a view to identifying those commonly found for assessing the need for helping CGS operators enhance their operation (para. 4.9(b));
- (k) enhance CGS operators' reporting of recyclables collected and dispatched (para. 4.25(a));
- (l) enhance the vetting by EPD staff of the quantities of permitted and secondary recyclables reported by CGS operators (para. 4.25(b));
- (m) expedite actions in reviewing the existing reporting requirements for CGS operators, including the submission time of regular reports (para. 4.25(c));
- (n) remind CGS operators to comply with the contract requirements for timely submission of audited financial statements (para. 4.25(d)); and
- (o) consider promulgating good practices identified over the years for sharing among CGS operators with a view to improving the services of CGSs (para. 4.25(h)).

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22. Regarding provision of CGSs, Audit has also *recommended* that the Director of Architectural Services should:

- (a) monitor the works progress and endeavour to complete the works as soon as practicable in implementing the construction works of CGS projects (para. 2.22(a));
- (b) strengthen actions to ensure that contractors comply with the contract requirements of carrying out construction works after approval of the related drawings and in accordance with the approved drawings (para. 2.22(b)); and
- (c) draw lessons from the problems of water leakage and toilet flushing at Sha Tin CGS and stagnant water at Eastern CGS with a view to improving the implementation of CGS projects (para 2.22(c)).

Response from the Government

23. The Director of Environmental Protection and the Director of Architectural Services generally agree with the audit recommendations.

PART 1: INTRODUCTION

1.1 This PART describes the background to the audit and outlines the audit objectives and scope.

Background

1.2 In early 2013, the Environment Bureau (ENB) announced a plan to develop five pilot Community Green Stations (CGSs) in different parts of the territory to promote environmental/green education and to enhance the collection network of recyclables. The development of CGSs is under the policy purview of ENB and the Environmental Protection Department (EPD).

1.3 According to the “Hong Kong Blueprint for Sustainable Use of Resources (2013-2022)” published by ENB in May 2013, CGS was one of the policy initiatives for mobilising the community to reduce waste (Note 1). The Government aimed to commission five pilot CGSs to bring green living to community in phases starting from late 2013 with a planned term of three years.

1.4 The 2014 Policy Address announced the development of a CGS in each of the 18 districts. In January 2014, ENB informed the Legislative Council (LegCo) Panel on Environmental Affairs that:

- (a) the setting up of 18 CGSs would involve an estimated capital expenditure of about \$400 million. The design and construction of CGSs would be both sustainable and aesthetically pleasing. ENB estimated that the CGS in Sha Tin District would be completed in mid-2014 while other CGSs would be completed by phases in the following three years (i.e. from 2015 to 2017); and

Note 1: *The Blueprint sets out the vision to use less and waste less of the Earth’s resources through instilling an environmentally sustainable culture into Hong Kong people’s daily life. Apart from CGSs, other policy initiatives include those related to food waste, glass beverage bottles collection and “bring your own bag”.*

Introduction

- (b) a non-governmental organisation (NGO) would be appointed by way of tender to operate each CGS which would help green living to take root at the community level. The Government would provide financial support to NGO operators. Leveraging on their local connections, NGO operators would collaborate with schools, property management and other relevant stakeholders or institutions on publicity and educational programmes as well as supporting recycling efforts at community level.

Provision of CGSs

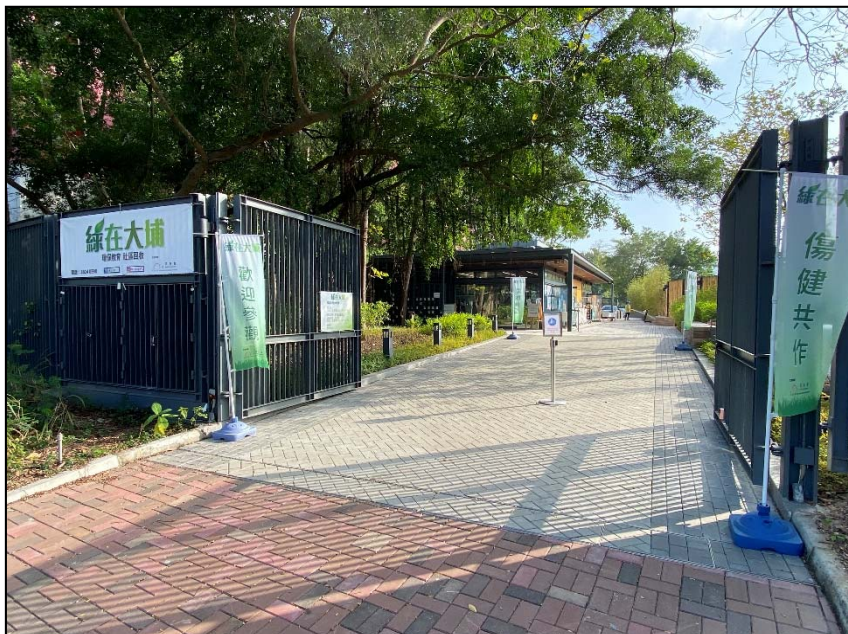
1.5 According to EPD:

- (a) in general, each CGS (see Photograph 1 for an example) should preferably have a site area of no less than 1,500 square metres (m²) (Note 2) and should as far as practicable be conveniently located so as to facilitate visits by local residents;
- (b) to meet operational needs, each CGS should have space for temporary storage of recyclable materials (see Photograph 2 for an example) and simple operations, and designated area for loading/unloading of recyclable materials by collection vehicles; and
- (c) in addition to general office space, CGSs should have multi-purpose rooms (see Photograph 3 for an example) and other ancillary facilities for outdoor activities for the purpose of environmental education.

Note 2: *According to EPD, as of December 2019: (a) for the 9 CGSs with construction works completed (see para. 1.6(a)(i)), the site area for each CGS ranged from 1,770 m² to 7,090 m²; (b) for the 2 CGSs with construction works in progress (i.e. Sai Kung and Wan Chai CGSs — see para. 1.6(a)(ii)), their site areas were 1,460 m² and 695 m² respectively; and (c) the 11 CGSs with construction works completed or in progress included all the facilities mentioned in paragraph 1.5(b) and (c).*

Photograph 1

Tai Po CGS



Source: Photograph taken by Audit Commission staff in January 2020

Photograph 2

Storage area of recyclable materials of Tai Po CGS

Storage area of recyclable materials



Source: Photograph taken by Audit Commission staff in January 2020

Photograph 3

Multi-purpose room of Tai Po CGS



Source: Photograph taken by Audit Commission staff in January 2020

1.6 EPD is the project proponent for CGSs and the Architectural Services Department (ArchSD) acts as the works agent for implementation of CGS projects. Construction of CGSs is funded under block votes for Category D projects (Note 3) in the Public Works Programme under the Capital Works Reserve Fund (CWRP). As of December 2019, the progress for provision of CGSs in the 18 districts was as follows:

- (a) a total funding of \$286.8 million had been approved for implementing 11 CGS projects and a total expenditure of \$195.5 million had been incurred (see Table 1). The works for the 11 CGS projects commenced between 2014 and 2018 and their progress was as follows:

Note 3: *The Director of Architectural Services is the vote controller of the block vote (Head 703, Subhead 3101GX) for the construction of Sha Tin and Eastern CGSs, while the Director of Environmental Protection is the vote controller of the block vote (Head 705, Subhead 5101DX) for the construction of other CGSs.*

- (i) for 9 CGSs (i.e. Sha Tin, Eastern (Note 4), Kwun Tong, Yuen Long, Sham Shui Po, Tuen Mun, Kwai Tsing, Tai Po and Islands), the construction works were completed between 2015 and 2018 and operators had been appointed by EPD to operate them (see para. 1.8); and
 - (ii) for 2 CGSs (i.e. Sai Kung and Wan Chai), the construction works were in progress; and
- (b) the remaining 7 CGSs were at planning or site selection stage.

Note 4: *According to ArchSD, the construction works of Sha Tin and Eastern CGSs were the first two pilot projects of this building type in Hong Kong.*

Table 1
CGS projects with funding approved
(December 2019)

CGS	Works commencement date	Works completion date (Note 1)	Approved funding (\$ million)	Actual expenditure (Note 2) (\$ million)
Works completed				
1. Sha Tin	4/2014	1/2015	20.5	19.4
2. Eastern	3/2014	5/2015	27.3	25.7
3. Kwun Tong	6/2015	11/2016	29.0	23.8
4. Yuen Long	7/2015	11/2016	29.0	23.5
5. Sham Shui Po	10/2015	9/2017	29.0	21.7
6. Tuen Mun	12/2015	12/2017	25.0	15.4
7. Kwai Tsing	3/2016	7/2018	26.0	16.1
8. Tai Po	5/2016	11/2018	25.0	10.9
9. Islands	5/2016	12/2018	25.0	15.7
Subtotal (a)			235.8	172.2
Works in progress				
10. Sai Kung	7/2017	In progress (Note 3)	22.0	10.7
11. Wan Chai	5/2018	In progress (Note 3)	29.0	12.6
Subtotal (b)			51.0	23.3
Total (c) = (a) + (b)			286.8	195.5

Source: ArchSD and EPD records

Note 1: The works completion date refers to the date of substantial completion of works, after which there is a 12-month maintenance period for the contractor to carry out outstanding works and to rectify defects.

Note 2: As of December 2019, the accounts for the construction works of Sha Tin and Eastern CGSs had been finalised. For other CGSs with the contract accounts not yet finalised, there would be further payments after the contractors had fulfilled all their obligations under the contracts.

Note 3: The original contract completion dates for the construction of Sai Kung and Wan Chai CGSs were December 2018 and October 2019 respectively. As of December 2019, the works had not been completed.

Services provided by CGSs

1.7 According to EPD, private recyclers mainly collect recyclables of higher commercial value. CGSs will enhance environmental education and help collect different types of recyclables, especially those of low economic value (including electrical appliances, computers, glass bottles, rechargeable batteries, and compacted fluorescent lamps and fluorescent tubes) in the local community, with a view to promoting green living at the community level. Through promotion of source separation of waste and clean recycling, the value of recyclables recovered by the community is also expected to be enhanced. The main services provided by CGSs include the following:

- (a) ***Environmental educational services.*** CGSs promote environmental education with various publicity and public educational programmes that target at local residents of different status and background. Organised either on-site or outside the CGS facility, these programmes aim to instil a green living culture into the community from different perspectives, particularly waste reduction and recycling; and
- (b) ***Recyclables collection services.*** CGSs provide support to waste reduction and recycling programmes at the community level, including collaboration with different stakeholders to collect recyclables and enhance the community collection network (e.g. setting up collection points at housing estates and mobile collection points at public places). According to EPD, such collaboration may allow members of the public to get involved in waste reduction and recycling in person and help implement other source separation initiatives.

Operation of CGSs

1.8 EPD appoints NGOs to operate CGSs by way of open tender. The operating contracts are generally for a period of three years, comprising a preparatory period (Note 5) and a service period (from the expiry of the preparatory period to the expiry of the contract). As of December 2019, the operating contracts for the 9 CGSs

Note 5: *The preparatory period commencing on the contract commencement date is for the operators to prepare for and initiate the provision of services. Under the first operating contract for each of the 9 CGSs with construction works completed, the preparatory period was up to six months.*

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with construction works completed (see para. 1.6(a)(i)) had been awarded (Note 6). Of these 9 CGSs, 8 CGSs commenced operation between May 2015 and October 2019 and the remaining CGS would commence operation in the second quarter of 2020 (see Table 2).

Table 2
Operating contracts of nine CGSs
(December 2019)

CGS	Operating contract commencement date	CGS operation commencement date	Operating expenditure in 2018 (\$ million)
1. Sha Tin	November 2014 (renewed in November 2017)	May 2015	4.76
2. Eastern	April 2015 (renewed in April 2018)	August 2015	3.91
3. Kwun Tong	September 2016 (renewed in December 2019 — Note)	January 2017	4.27
4. Yuen Long	October 2016 (renewed in January 2020 — Note)	January 2017	3.46
5. Sham Shui Po	April 2017	October 2017	4.70
6. Tuen Mun	June 2018	September 2018	2.10
7. Kwai Tsing	June 2018	November 2018	0.77
8. Tai Po	June 2019	October 2019	N/A
9. Islands	October 2019	Second quarter of 2020	N/A
Total			23.97

Source: EPD records

Note: According to EPD, the first contracts for Kwun Tong and Yuen Long CGSs had been extended for about three months in light of the progress of award of the follow-on contracts.

Note 6: The operating contracts for the 9 CGSs had been awarded to six NGOs, with three of them each operating two CGSs and the other three each operating one CGS.

1.9 EPD makes payments to the operators of CGSs in accordance with the operating contracts, as follows:

- (a) a fixed lump sum for setting up of a CGS (Note 7); and
- (b) an amount based on the actual quantity of services provided on a monthly basis (Note 8).

In 2018, the total operating expenditure for CGSs was about \$24 million. For the 5 CGSs with a full-year operation in 2018 (see items 1 to 5 in Table 2 in para. 1.8), their operating expenditures ranged from about \$3.46 million to \$4.76 million.

Monitoring of CGS operation

1.10 EPD monitors the performance of CGS operators mainly through the following means:

- (a) ***Setting of reporting requirements and vetting of reports submitted by CGS operators.*** Under the operating contracts, each CGS operator is required to submit to EPD for approval an operation plan describing the detailed arrangements for the delivery of the relevant services including in particular educational services and recyclables collection services. The operator is required to submit a monthly report on its operation detailing the performance statistics in relation to its educational and recyclables collection services and other matters requiring attention in the reporting period. The monthly report is vetted by EPD and the operator is paid based on actual work done detailed in the report. In addition, according to EPD, in order to enhance transparency and to proactively solicit feedback, the operator is required to publish a quarterly report on its work. The operator

Note 7: *For a CGS, the fixed lump sum includes setting up for the station and recyclables collection, such as procurement and installation of furniture and equipment at the station and recyclables collection points at housing estates and public places.*

Note 8: *The monthly payment includes fees for management of facilities and for actual quantity of services provided in a particular month in accordance with the prices set out by the operator under the contract. Services include recyclables collection (payment based on tonnage of recyclables collected) and educational services (payment based on number of educational events held).*

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is also required to submit annual audited financial statements and an annual summary of monthly reports to EPD;

- (b) ***Inspection.*** To monitor the performance and operation of CGSs, EPD staff periodically conduct inspections of recyclables collection services, educational services and facilities of CGSs; and
- (c) ***Stakeholder feedback.*** Under the operating contracts, each CGS operator is required to engage with stakeholders on a regular basis to keep them informed regarding its CGS, including its objectives, services, achievements and programmes. According to EPD, it assesses the public acceptance of the CGS initiative and the community's satisfaction on a particular CGS based on stakeholder feedback which provides reference on areas of improvement or suggestions on work priority for CGS operators to follow up.

Responsible division of EPD

1.11 Development and monitoring of CGSs fall under the responsibility of EPD's Waste Management Policy Division (see Appendix A for an extract of EPD's organisation chart as at 31 October 2019). As of October 2019, 13 of 80 staff in the Waste Management Policy Group under the Waste Management Policy Division were tasked for management of CGSs, and their related staff expenditure for 2018-19 was about \$13 million.

Audit review

1.12 In October 2019, the Audit Commission (Audit) commenced a review to examine the Government's efforts in provision and management of CGSs. The audit review has focused on the following areas:

- (a) provision of CGSs (PART 2);
- (b) services provided by CGSs (PART 3); and
- (c) other management issues (PART 4).

Audit has found room for improvement in the above areas, and has made a number of recommendations to address the issues.

Acknowledgement

1.13 Audit would like to acknowledge with gratitude the full cooperation of the staff of ENB, EPD and ArchSD during the course of the audit review.

PART 2: PROVISION OF COMMUNITY GREEN STATIONS

2.1 This PART examines actions taken by EPD and ArchSD in provision of CGSs, focusing on:

- (a) development of CGSs (paras. 2.2 to 2.8); and
- (b) management of works projects (paras. 2.9 to 2.24).

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2.2 The 2014 Policy Address announced the development of a CGS in each of the 18 districts. According to EPD:

- (a) each CGS is a purpose-built facility;
- (b) in general, a suitable CGS site should preferably have a site area of no less than 1,500 m² and should as far as practicable be conveniently located so as to facilitate visits by local residents; and
- (c) when identifying locations for the development of CGSs, the Government will strike an appropriate balance between facilitating collection of recyclables and minimising possible environmental impacts on nearby residents.

2.3 EPD is the project proponent for CGSs and ArchSD acts as the works agent for implementation of CGS projects. The procedures in developing a CGS are, in general, as follows:

- (a) ***Site search, consultation and feasibility study.*** EPD will conduct site search to identify a suitable site for development of CGS. After a suitable site has been identified, EPD will conduct consultation with local communities and the relevant District Council (DC). ArchSD will carry

out technical feasibility study and preliminary design upon receiving the proposal from EPD;

- (b) ***Land allocation and funding approval.*** After obtaining local support and completion of feasibility study, EPD will formally apply for land allocation for CGS (by way of temporary government land allocation for a five-year period subject to further extension). After obtaining approval for land allocation, funding approval will be sought for the construction of CGS (see para. 2.9); and
- (c) ***Detailed design and implementation of works.*** After obtaining funding approval, ArchSD will arrange to carry out detailed design and implement the construction works of CGS. After the works have been completed, ArchSD will hand over the CGS to EPD for commencement of operation.

Need to make continued efforts to address challenges faced in developing CGSs

2.4 In January 2014, ENB informed LegCo Panel on Environmental Affairs that the setting up of 18 CGSs would involve an estimated capital expenditure of about \$400 million, and it estimated that all 18 CGSs would be completed by phases in the following three years (i.e. from 2015 to 2017). However, the estimated timeframe for completing the 18 CGSs by 2017 was not met. As of February 2020:

- (a) for the 11 CGSs with approved funding (see also paras. 2.9 to 2.24 for management of works for these projects):
 - (i) construction works of 9 (50% of 18) CGSs had been completed (Note 9), with 6 CGSs completed between 2015 and 2017, and 3 CGSs completed in 2018; and
 - (ii) for 2 (11% of 18) CGSs (i.e. Sai Kung and Wan Chai), construction works were in progress; and

Note 9: *For the 9 completed CGSs, 8 CGSs (i.e. Sha Tin, Eastern, Kwun Tong, Yuen Long, Sham Shui Po, Tuen Mun, Kwai Tsing and Tai Po) had commenced operation as of December 2019 and 1 CGS (i.e. Islands) will commence operation in the second quarter of 2020.*

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- (b) for the remaining 7 (39% of 18) CGSs (i.e. Central and Western, Kowloon City, North, Southern, Tsuen Wan, Wong Tai Sin and Yau Tsim Mong), they were at planning or site selection stage.

2.5 According to EPD and ArchSD, for the 7 CGSs at planning or site selection stage (see para. 2.4(b)):

CGS with suitable site identified (i.e. at advanced planning stage)

- (a) **Wong Tai Sin.** EPD had identified a suitable site for CGS development and support from DC was obtained in June 2019. According to EPD, the site was expected to be available by end of 2020;

CGSs with suitable sites yet to be identified (i.e. at site selection stage)

- (b) **Central and Western.** In 2016, EPD identified a potential site for CGS development. In 2018, the site was considered not suitable due to site constraints as identified in feasibility study. As of February 2020, no alternative sites had been identified;
- (c) **Kowloon City.** In February 2019, EPD identified a potential site for CGS development. In January 2020, ArchSD informed EPD that the site was not feasible for CGS development. As of February 2020, no alternative sites had been identified;
- (d) **North.** In March 2016, EPD identified a potential site for CGS development. In March 2020, EPD informed Audit that an alternative site needed to be identified due to competing uses; and
- (e) **Southern, Tsuen Wan and Yau Tsim Mong.** Between 2014 and 2016, EPD consulted the relevant stakeholders, including DCs, on the proposed sites but concerns were raised over the sites proposed. As of February 2020, no alternative sites had been identified.

2.6 In March 2020, EPD informed Audit that:

- (a) the identification of a suitable site for development of a CGS in each of the 18 districts had met with great practical challenges, as follows:
 - (i) there were difficulties in identifying vacant sites at convenient locations with sufficient site area in many districts. Very often such sites had other competing uses to meet other policy priorities (e.g. transport infrastructure) and/or local community needs (e.g. parking);
 - (ii) upon identification of a potential site after prolonged consultation with stakeholders, it would still take a long time before the project could be proceeded. EPD, in collaboration with ArchSD, would need to establish the feasibility for development of CGS at the site, taking into account various factors (e.g. compatibility with existing and/or planned land uses around the potential site) and other specific site constraints (e.g. geotechnical conditions, underlying utilities and infrastructures); and
 - (iii) subsequently, EPD would consult the local stakeholders again on the CGS development. In many cases, EPD had spent considerable time and effort to address specific concerns raised by the local communities. In some cases, due to local objection to the CGS project, an alternative site had to be identified again; and
- (b) as of February 2020, there were six districts (see para. 2.5(b) to (e)) in which no suitable sites could be secured for development of CGSs. In light of the long lead time for site identification, EPD was exploring alternative ways to expedite the delivery of the core services of CGSs (i.e. waste reduction education/promotion and collection of low-value recyclables) in these six districts, including:
 - (i) engaging CGSs in adjacent districts to provide educational support and establish mobile collection services; and
 - (ii) establishing smaller community recycling centres in the six districts to collect recyclables.

Audit recommendation

2.7 **Audit has recommended that the Director of Environmental Protection should make continued efforts to address the challenges faced in the development of the remaining CGSs (including identification of suitable sites) and expedite actions in exploring alternative ways to deliver core CGS services for districts with no CGSs.**

Response from the Government

2.8 The Director of Environmental Protection agrees with the audit recommendation.

Management of works projects

2.9 ArchSD is EPD's works agent for implementation of CGS projects, which are funded under block votes for Category D projects in the Public Works Programme under CWRP, as follows:

- (a) the construction works of Sha Tin and Eastern CGSs (being the first two pilot CGS projects) were funded under the block vote for minor building works (Head 703 (Buildings), Subhead 3101GX controlled by ArchSD — Note 10) of CWRP; and
- (b) the construction works of other CGSs are funded under the block vote for environmental works (Head 705 (Civil Engineering), Subhead 5101DX controlled by EPD — Note 11) of CWRP.

Note 10: *Minor building works (including alterations, additions, improvement works and fitting-out works) are funded under this block vote (Head 703, Subhead 3101GX). The Deputy Secretary for Financial Services and the Treasury (Treasury)³, on the advice of the Accommodation Strategy Group, is authorised to approve funding of projects not exceeding \$30 million each.*

Note 11: *Environmental works, studies and investigations (including minor works, feasibility studies and site investigations in respect of waste management and environmental works) are funded under this block vote (Head 705, Subhead 5101DX). The Permanent Secretary for the Environment is authorised to approve funding of projects not exceeding \$30 million each.*

2.10 In general, ArchSD implemented CGS projects through its in-house resources if available, and also term consultants, term contractors and design-and-build term contractors which had been engaged by open tenders. For the 11 CGSs with funding approved as of December 2019 (see para. 1.6(a)), the projects were implemented as follows:

- (a) for Sha Tin CGS (being the first pilot CGS project), it was designed by ArchSD's in-house design team in order to meet the programme urgency, and the works were carried out by a contractor engaged through open tender;
- (b) for Kwun Tong and Yuen Long CGSs, ArchSD issued assignment letters and works orders to the term consultants and term contractors respectively for project implementation; and
- (c) for the other CGSs, ArchSD assigned the projects to design-and-build term contractors. The contractors were required to design and carry out the construction works.

ArchSD is responsible for administering consultancy agreements and works contracts (including issuing assignment letters and works orders, monitoring the progress, cost and quality of works, certifying completion of works and arranging handover of completed works to EPD).

Delay in completing construction works of some CGSs

2.11 For the 11 CGSs with funding approved for implementation as of December 2019 (see para. 1.6 (a)), as shown in Table 3, Audit noted that:

- (a) for the 9 CGSs with construction works completed, they were completed about 1.5 to 14 months later than their respective original contract completion dates; and
- (b) for the 2 CGSs with construction works in progress, as of December 2019, they had already missed their original contract completion dates by about 2.8 and 12.9 months respectively.

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Table 3

Implementation of construction works of CGSs (December 2019)

CGS	Works commencement date	Original contract completion date (a)	Actual completion date (b)	No. of months later than original contract completion date (c) = [(b)-(a)]÷30
Works completed (Note 1)				
1. Sha Tin	29.4.2014	14.12.2014	29.1.2015	1.5
2. Eastern	12.3.2014	27.2.2015	5.5.2015	2.2
3. Kwun Tong	17.6.2015	16.4.2016	10.11.2016	6.9
4. Yuen Long	16.7.2015	16.6.2016	16.11.2016	5.1
5. Sham Shui Po	19.10.2015	18.1.2017	21.9.2017	8.1
6. Tuen Mun	10.12.2015	4.5.2017	29.12.2017	8.0
7. Kwai Tsing	3.3.2016	25.7.2017	18.7.2018	11.9
8. Tai Po	30.5.2016	21.10.2017	22.11.2018	13.2
9. Islands	20.5.2016	11.10.2017	5.12.2018	14.0
Works in progress (Note 2)				
10. Sai Kung	17.7.2017	8.12.2018	In progress	12.9
11. Wan Chai	14.5.2018	7.10.2019	In progress	2.8

Source: ArchSD records

Note 1: According to ArchSD, for the 9 CGSs with works completed, there was delay in completion of works for only 3 CGSs (i.e. 1 month for Sham Shui Po CGS, 1.4 months for Tuen Mun CGS and 5 months for Kwai Tsing CGS) after taking into account extensions of time granted (see para. 2.12).

Note 2: For Sai Kung and Wan Chai CGSs, as the construction works were in progress, the duration of 12.9 and 2.8 months showed the position as of December 2019. In March 2020, ArchSD informed Audit that the completion dates for Sai Kung and Wan Chai CGSs had been extended to January and February 2020 respectively with extensions of time granted.

2.12 In March 2020, ArchSD informed Audit that:

- (a) for the 9 CGSs with works completed, the contractors were granted extensions of time (ranging from 1.5 to 14 months) for completion of works later than the original contract completion dates. After consideration of extensions of time granted, there was delay in completion of works for only 3 CGSs (i.e. Sham Shui Po, Tuen Mun and Kwai Tsing CGSs), with delay of 1 month, 1.4 months and 5 months respectively;
- (b) major incidents leading to granting extensions of time in accordance with the contract provision included unforeseen underground obstructions requiring changes of layout or diversion of utilities to resolve the conflict, and longer time required for completing utilities supply or drainage connections from connecting points outside project sites. In some of these cases, works completion was significantly affected by the need to carry out excavation works along a long section of busy road, which was unanticipated and required application of an excavation permit with complex coordination with relevant parties for temporary traffic management; and
- (c) liquidated damages were imposed on the contractor for Sham Shui Po and Tuen Mun CGSs and would be imposed on the contractor for Kwai Tsing CGS in accordance with the contract conditions based on the extent of delay after considering all extensions of time.

2.13 Audit noted that, for the 9 CGSs with works completed, there was delay in completion of works for 3 CGSs (see para. 2.12(a)). In Audit's view, ArchSD needs to monitor the works progress and endeavour to complete the works as soon as practicable in implementing the construction works of CGS projects.

Construction works carried out before approval of related drawings and not in accordance with the approved drawings

2.14 According to EPD, to meet operational needs, each CGS should have space for temporary storage of recyclable materials and simple operations (see para. 1.5(b)). Audit noted that, for two CGSs (i.e. Sham Shui Po and Tuen Mun CGSs), the construction works were carried out before the approval of the related drawings and not in accordance with the approved drawings. In the event, the sorting areas in the

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storage blocks were built with floor areas less than those specified by EPD (see paras. 2.15 to 2.17).

2.15 In October 2015, ArchSD issued a works order to a design-and-build term contractor (Contractor A) for construction of a CGS in Sham Shui Po. According to EPD's requirements, there should be a storage block in Sham Shui Po CGS with a sorting area of 24.84 m² (with width of 4.6 metres (m) and length of 5.4 m) for installation and operation of a baling machine (Note 12). EPD's area requirements for the baling machine had been incorporated into the design-and-build contract as a contract requirement.

2.16 Regarding the sorting area for installation of a baling machine, the salient points are as follows:

- (a) in September 2016, ArchSD approved Contractor A's architectural drawings (Note 13) for the storage block for Sham Shui Po CGS. In December 2016, ArchSD reminded Contractor A to submit the outstanding structural drawings for the storage block for approval before commencement of the related works. In January 2017, ArchSD noted that erection of the main structural steel frame of the sorting area in the storage block had been completed before the related structural drawings were approved by ArchSD. ArchSD warned Contractor A that it would be held responsible for any delay that might occur if the works were later found to be unacceptable;

Note 12: *A baling machine is used for compacting similar types of waste, such as plastics and paper. The floor area specified by EPD was able to accommodate a baling machine with capacity of up to 100 tonnages (i.e. baling machine with width of 1.6 m and length of 1.3 m) as well as clear space for operation.*

Note 13: *According to ArchSD, Contractor A had to submit architectural drawings (i.e. layout plans showing the design of the buildings) and structural drawings (i.e. plans showing the details of the structural works in accordance with the approved architectural drawings, such as installation works of structural steel) before commencement of works.*

- (b) in February and March 2017, ArchSD conducted site inspections of Sham Shui Po CGS and noted that due to obstruction by additional steel strengthening posts which were not shown on the approved architectural drawings, the space within the sorting area for the baling machine in the storage block might be inadequate. Contractor A was warned and urged to propose remedial measures for consideration by ArchSD;
- (c) ArchSD also noted that, for Tuen Mun CGS which was also built by Contractor A, construction of the structural steel frame of the sorting area in the storage block was completed before approval of the related structural drawings, and additional steel strengthening beams which were not shown on the approved architectural drawings were constructed in the sorting area;
- (d) in March 2017, ArchSD:
 - (i) informed EPD that the built floor areas for baling machines in both Sham Shui Po and Tuen Mun CGSs were less than EPD's requirements; and
 - (ii) while Contractor A's remedial proposals were being considered, in order not to have adverse effects on the overall progress and project completion, suggested EPD to liaise with the future operators and consider the viability of selecting baling machines that could be accommodated within the as-built areas;
- (e) after subsequent site visits and discussion with the operators, with due regard to the impacts on the programme and building design, EPD informed ArchSD that baling machines of a smaller size and capacity (of 60 tonnages — Note 14) were acceptable and would be installed in both CGSs to prevent further delay in CGS handover;
- (f) in September and December 2017, the construction works for Sham Shui Po and Tuen Mun CGSs were completed respectively; and

Note 14: *According to the tender requirements for the operating contracts of Sham Shui Po and Tuen Mun CGSs, each operator was required to install a baling machine with recommended capacity of 60 tonnages or higher. The original floor area specified by EPD was able to accommodate a baling machine with capacity of up to 100 tonnages (see Note 12 to para. 2.15).*

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- (g) in March 2020, ArchSD informed Audit that the arrangement of installing baling machines of a smaller size and capacity in both Sham Shui Po and Tuen Mun CGSs was considered pragmatic as it would avoid further delay in handing over the CGSs, and Contractor A's unsatisfactory performance was duly reflected in its performance reports.

2.17 According to the contract for the construction of Sham Shui Po and Tuen Mun CGSs, the related drawings should be approved by ArchSD before commencement of works and the works should be carried out according to the approved drawings. However, for the two CGSs, construction of the structural steel frame of the sorting areas in the storage blocks was completed before ArchSD's approval of the related drawings and not in accordance with the approved drawings (see para. 2.16(a) and (c)). In the event, EPD's area requirements for installation of baling machines (see para. 2.15) were not met and baling machines of a smaller size and capacity were installed at both CGSs (see para. 2.16(e)). In Audit's view, ArchSD needs to strengthen actions to ensure that contractors comply with the contract requirements of carrying out construction works after approval of the related drawings and in accordance with the approved drawings.

Need to draw lessons from various facility problems encountered after some CGSs had commenced operation

2.18 Audit noted that after some CGSs had commenced operation, works were carried out for tackling various facility problems, as follows:

- (a) for Sha Tin CGS, works were needed for tackling water leakage problems at the roofs of buildings and flushing problems in the toilets (see paras. 2.19 and 2.20); and
- (b) for Eastern CGS, works were needed for tackling stagnant water problems on roofs of buildings (see para. 2.21).

2.19 ***Water leakage problems at Sha Tin CGS.*** After Sha Tin CGS commenced operation in May 2015, water leakage was observed at various facilities. The salient points are as follows:

- (a) in December 2015, EPD requested ArchSD to carry out water proofing works at the roof of the office block as water leakage had been observed. In January 2016, ArchSD visited the CGS with EPD. In March 2016, EPD reported that water leakage had also been found at the roof of a multi-purpose room. In October 2016, repair and water proofing works were completed at a cost of about \$196,000;
- (b) in August 2016, EPD reported that water leakage had been observed at the roofs of the storage block and another multi-purpose room. In January 2017, water leakage was also observed at the roof of the toilet block. In April 2017, water proofing works were completed at a cost of about \$128,000; and
- (c) in January 2018, EPD reported that water leakage had been observed at the roof of the toilet block. After its inspection, ArchSD considered that enhancement works for the toilet block were necessary. In July 2019, enhancement works were completed at a cost of about \$3,000. In March 2020, ArchSD informed Audit that no further incident of leakage had been noted since July 2019.

In Audit's view, ArchSD needs to draw lessons from the water leakage problems at Sha Tin CGS with a view to improving the implementation of CGS projects.

2.20 *Toilet flushing problems at Sha Tin CGS.* The salient points are as follows:

- (a) in December 2016, EPD informed ArchSD that the flushing system of the toilets in Sha Tin CGS was not functioning properly, causing hygiene problems. EPD and ArchSD conducted a joint inspection in January 2017 and found that the problem was caused by a defective flushing water cistern. EPD agreed to follow up with the operator to rectify the defective flushing water cistern;
- (b) in November 2017, EPD expressed concerns on the provision of flushing water at the toilets, and that the CGS operator had to use fresh water for flushing in order to upkeep the hygiene standard. During the subsequent inspection in January 2018, ArchSD found that the electronic operated flushing valves were out of order. Replacement works were arranged and

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completed in April 2018 and the flushing water supply resumed normal afterwards;

- (c) in May 2018, since there was no flushing water supply to the toilets, the CGS operator had to use fresh water for flushing purpose. According to ArchSD, after investigation, it had arranged to clear the blocked flushing water pipes and the flushing water supply resumed normal afterwards;
- (d) in July 2018, in view of the repeated requests for repairing the flushing system of the toilets, ArchSD proposed to EPD to install an additional pumping system to improve the water pressure in the flushing system. The design of the enhancement proposal was accepted by EPD in November 2018 and ArchSD then commenced the preparatory work;
- (e) in March 2019, ArchSD issued works orders to a term contractor for carrying out the installation of the additional pumping system in the toilets with a total cost of about \$202,000;
- (f) in October 2019, the installation of the additional pumping system was completed. According to ArchSD, the construction of the enclosure to protect the pumping system for operational needs was yet to be completed;
- (g) in January 2020, Audit conducted a site visit to Sha Tin CGS and found that the toilets were not functioning properly and fresh water was used for flushing purpose; and
- (h) in March 2020, ArchSD informed Audit that, after completion of the construction of the enclosure, the pumping system was put into use and the flushing water supply resumed with enhanced performance in February 2020.

In Audit's view, it was unsatisfactory that the flushing problems in Sha Tin CGS had not been fully resolved for more than three years after EPD first reported the problems to ArchSD in December 2016. ArchSD needs to draw lessons from the toilet flushing problems at Sha Tin CGS with a view to improving the implementation of CGS projects.

2.21 *Stagnant water problems at Eastern CGS.* After Eastern CGS commenced operation in August 2015, stagnant water problems were observed. The salient points are as follows:

- (a) in May 2016, EPD and the CGS operator raised concerns about stagnant water being found occasionally on the rooftops of storage blocks and workshop building after raining. In addition, dripping of rainwater from the roof edge over the workshop building was observed, thus affecting the CGS's operation;
- (b) in July 2016, ArchSD considered that the roofs of the related buildings were not high and could be safely accessed by ladder and suggested EPD to explore if certain proprietary ladder platform meeting the required industrial safety standard could be provided for cleansing staff to clear the stagnant water on the rooftops when needed. However, the proposal was not adopted as the CGS operator had raised operation concerns;
- (c) in December 2016 and January 2017, EPD requested ArchSD to reconsider providing long-term architectural solution to resolve the stagnant water problems;
- (d) in March 2017, at a regular coordination meeting between ArchSD and EPD, it was agreed that artificial grass mat on the roofs of the related buildings could be installed to resolve the stagnant water problem. According to EPD, it had verbally informed the CGS operator about the proposal of installing artificial grass mat on the related roofs;
- (e) on 17 May 2017:
 - (i) ArchSD awarded a contract to a contractor (Contractor B) to carry out the installation of artificial grass mat and metal fin on the roofs of the related buildings to resolve the stagnant water and water dripping problems respectively, with works commencing on the same day;
 - (ii) the CGS operator informed EPD of its objection to the proposal of installing artificial grass mat due to maintenance concerns, and EPD requested ArchSD to consider suspending the installation of artificial grass mat; and

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- (iii) ArchSD informed Contractor B to withhold the installation works pending further review of the design with EPD;
- (f) in December 2017, ArchSD proposed and both EPD and the CGS operator agreed to use lightweight concrete screed over the roofs of the related buildings to resolve the stagnant water situation; and
- (g) in March 2018, the works were completed at a total cost of about \$735,000. According to ArchSD, the total cost included a deposit payment of about \$51,000 for the purchase of materials for artificial grass mat (based on the original design) which was not recoverable.

In Audit's view, ArchSD needs to draw lessons from the stagnant water problems at Eastern CGS with a view to improving the implementation of CGS projects. ArchSD also needs to, in collaboration with EPD, liaise closely with CGS operators on proposed works at CGSs with a view to improving communications.

Audit recommendations

2.22 Audit has *recommended* that the Director of Architectural Services should:

- (a) **monitor the works progress and endeavour to complete the works as soon as practicable in implementing the construction works of CGS projects;**
- (b) **strengthen actions to ensure that contractors comply with the contract requirements of carrying out construction works after approval of the related drawings and in accordance with the approved drawings;**
- (c) **draw lessons from the problems of water leakage and toilet flushing at Sha Tin CGS and stagnant water at Eastern CGS with a view to improving the implementation of CGS projects; and**
- (d) **in collaboration with the Director of Environmental Protection, liaise closely with CGS operators on proposed works at CGSs with a view to improving communications.**

Response from the Government

2.23 The Director of Architectural Services agrees with the audit recommendations. She has said that ArchSD will:

- (a) in implementing the construction works of CGS projects, monitor the works progress and endeavour to complete the works as soon as practicable according to programme;
- (b) in implementing the construction works of CGS projects, strengthen monitoring actions on the contractors' site works and take appropriate action to avoid works being carried out before approval of relevant design drawings and to ensure compliance of works with the approved design drawings;
- (c) share the experience about the enhancement works carried out for CGSs after operation with ArchSD staff with a view to improving the implementation of future CGS projects; and
- (d) collaborate with EPD in liaising closely with CGS operators for the proposal of enhancement works at CGSs, if any, to ensure their clear understanding and timely confirmation of agreement before implementing the works.

2.24 The Director of Environmental Protection agrees with the audit recommendation in paragraph 2.22(d).

PART 3: SERVICES PROVIDED BY COMMUNITY GREEN STATIONS

3.1 This PART examines EPD's actions in monitoring the services provided by CGSs, focusing on:

- (a) environmental educational services (paras. 3.4 to 3.16);
- (b) recyclables collection services (paras. 3.17 to 3.34); and
- (c) visitors' patronage of CGSs (paras. 3.35 to 3.45).

3.2 EPD appoints NGOs to operate CGSs by way of open tender, and the operating contracts are generally for a period of three years. According to the operating contracts, CGS operators should provide services including educational services, recyclables collection services and management of the facility, and the services should meet the following objectives:

- (a) to promote environmental education and awareness;
- (b) to provide a collection service for prescribed recyclables for the local community;
- (c) to foster recycling at a local community level; and
- (d) to provide accessible and visible support for green living at the community level.

3.3 The operating contracts set out the services that CGS operators are required to deliver in the contract period and the performance indicators (e.g. number of educational events to be provided and quantities of recyclables to be collected). If a CGS operator fails to deliver the services as required, it should provide explanations and submit a remedial action plan for EPD's approval. Otherwise, EPD will be entitled to withhold payments to the operator.

Environmental educational services

3.4 The main function of CGSs is to promote environmental education with various publicity and public educational programmes that target at local residents of different status and background. CGS operators are required to provide educational services to meet the following objectives:

- (a) to promote environmental education and awareness, and to foster waste reduction and recycling; and
- (b) to enhance community involvement in environmental, conservation and green living issues.

3.5 According to the operating contracts, CGS operators should provide the following three types of educational events (Note 15):

- (a) ***Regular educational events.*** A regular educational event means an event of at least one hour and attended by not fewer than the specified minimum number of participants (Note 16) to promote environmental education and/or green living and/or sustainability. For operating contracts commencing since November 2017, regular educational events are further separated into two types, namely on-site regular educational events (conducted within CGS premises — see Photograph 4 for an example) and outreach regular educational events (conducted outside CGS premises and outreaching to target groups, such as schools — see Photograph 5 for an example);

Note 15: *According to the operating contracts: (a) in principle, CGS operators should provide educational events free of charge to the participants; and (b) in special cases (e.g. where special speakers are invited or expensive materials are involved), subject to approval by EPD, the operators may collect charges from participants for the events in the principle of non-profit-making.*

Note 16: *For the eight CGSs which commenced operation between 2015 and 2019, under their operating contracts as of October 2019, the minimum number of participants required for each regular educational event was 10 people for three CGSs (i.e. Kwun Tong, Yuen Long and Sham Shui Po CGSs) and 20 people for the other five CGSs (i.e. Sha Tin, Eastern, Tuen Mun, Kwai Tsing and Tai Po).*

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- (b) ***Featured educational events.*** A featured educational event means a large scale public event of at least 6 hours to engage the public, and promote environmental education and/or green living and/or sustainability (Note 17) (see Photograph 6 for an example); and
- (c) ***Special community events.*** For operating contracts commencing since November 2017, CGS operators are required to organise special community events. A special community event means an event or a series of activities to engage the public and/or organisations and to provide education and collect unwanted but usable items from the public for distribution, donation or sales of such for reuse by others (see Photograph 7 for an example). Each event has to meet a minimum collection requirement of 500 kilograms (kg) of reusable items (Note 18).

Photograph 4

**On-site regular educational event
held by Sham Shui Po CGS
(May 2019)**



Source: EPD records

Photograph 5

**Outreach regular educational event
held by Eastern CGS
(March 2019)**



Source: EPD records

Note 17: *A featured educational event may include a full-day programme (minimum 6 hours) to promote waste recycling/green education (e.g. an “Environmental Fair”) and activities including educational games, booths promoting green education/sustainable products and an exchange programme where recyclables would be exchanged for a gift.*

Note 18: *Examples of special community events are collecting unwanted but usable items discarded by students before they leave their hostels for summer vacation and arranging the exchange and distribution of such items, and collecting used clothes from the public for distribution, donation or sales to others.*

Photograph 6

Featured educational event
held by Sha Tin CGS
(January 2019)



Source: EPD records

Photograph 7

Special community event
held by Eastern CGS
(August 2019)



Source: EPD records

***Minimum quantity requirements for educational events
not met by some CGSs***

3.6 According to the operating contracts, there is a minimum quantity requirement on the number of different types of educational events provided by a CGS operator in each contract year (see Appendix B). For the seven CGSs which commenced operation between 2015 and 2018 (see items 1 to 7 in Table 2 in para. 1.8), Audit noted that, for the first contract year under the current operating contracts of Sha Tin CGS (24 November 2017 to 23 November 2018) and Tuen Mun CGS (1 June 2018 to 31 May 2019), the number of outreach regular educational events and special community events held fell short of the minimum quantity requirements by 40% to 67% (see Table 4).

Table 4

**Minimum quantity requirements for educational events
not met by two CGSs
(November 2017 to May 2019)**

CGS	Contract period	Type of educational events (Note 1)	Educational events (No.)		
			Minimum requirement (a)	Actual (Note 2) (b)	Below minimum requirement (c) = (a) – (b)
Sha Tin	24.11.2017 to 23.11.2018	Outreach regular educational events	40	24	16 (40%)
		Special community events	4	2	2 (50%)
Tuen Mun	1.6.2018 to 31.5.2019	Outreach regular educational events	25	13	12 (48%)
		Special community events	3	1	2 (67%)

Source: EPD records

Note 1: The requirements of outreach regular educational events (see para. 3.5(a)) and special community events (see para. 3.5(c)) were introduced for contracts commencing since November 2017. As of June 2019, there were four CGSs (i.e. Sha Tin, Eastern, Kwai Tsing and Tuen Mun CGSs) with these requirements imposed for more than one year.

Note 2: The number of educational events actually held refers to those satisfying the relevant performance requirements (e.g. number of participants and quantity of recyclables received).

3.7 In March 2020, EPD informed Audit that:

- (a) as the outreach regular educational events and special community events were new contract requirements introduced in November 2017, the operators of Sha Tin and Tuen Mun CGSs both met unexpected difficulties in fulfilling the new requirements;

- (b) for regular educational events, the local community was more interested in on-site events rather than outreach ones, resulting in more of the former being organised. While both operators did not meet the specific quantity requirement for outreach regular educational events, the total number of regular educational events (including both on-site and outreach events) held met the overall quantity requirements, as follows:
 - (i) for Sha Tin CGS, in the contract year from 24 November 2017 to 23 November 2018, the total number of regular educational events held was 120 (comprising 96 on-site and 24 outreach events), which met the minimum quantity requirement of 120 (comprising 80 on-site and 40 outreach events); and
 - (ii) for Tuen Mun CGS, in the contract year from 1 June 2018 to 31 May 2019, the total number of regular educational events held was 88 (comprising 75 on-site and 13 outreach events), which exceeded the minimum quantity requirement of 75 (comprising 50 on-site and 25 outreach events);
- (c) for special community events, which involved the collection of recyclables (e.g. books, clothes, furniture and electrical appliances) for subsequent exchange or donation activities, both operators took much longer-than-expected time to complete the planned events. The operator of Tuen Mun CGS also encountered unexpected situation, such as insufficient storage area for second-hand furniture, which resulted in some events not completed as planned. EPD had closely monitored the progress and agreed to allow both operators a longer period for completing these events, and their progress was as follows:
 - (i) for Sha Tin CGS, in the contract year from 24 November 2017 to 23 November 2018, the operator launched four special community events (minimum quantity requirement), with two events completed in the same contract year and the remaining two events completed in the following contract year; and
 - (ii) for Tuen Mun CGS, in the contract year from 1 June 2018 to 31 May 2019, the operator launched three special community events (minimum quantity requirement), with one event completed in the same contract year, another one completed in the first month of the

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following contract year and the remaining one in progress as of December 2019;

- (d) EPD had taken measures to monitor the performance of CGS operators in meeting the quantity requirements on educational events, and provided assistance (e.g. publicity and connecting with relevant stakeholders) as necessary; and
- (e) EPD was reviewing the contract requirements for regular educational events, and would consider adopting an overall target for on-site and outreach educational events, to better address the specific situation of individual CGSs.

3.8 In Audit's view, EPD needs to early complete the review of the minimum quantity requirements for educational events (see para. 3.7(e)), having regard to CGS operation and the need of local residents for such services. EPD also needs to share among CGS operators their experience in providing educational services (e.g. difficulties encountered) with a view to facilitating them to provide such services.

Need to disseminate the methodology in counting the number of regular educational events held by CGSs

3.9 Under the operating contracts, only those educational events fulfilling the contract requirements will be qualified for payment (Note 19) and counted in meeting the minimum quantity requirement (hereinafter referred to as qualifying events). For example, a regular educational event should be of at least one hour and attended by not fewer than the specified minimum number of participants (see para. 3.5(a)). CGS operators will include in the monthly reports the details of all educational events held or cancelled during the month (e.g. date, duration, type of event and number of participants). EPD will check the monthly reports and confirm the number of qualifying events.

Note 19: *The payment is based on the numbers of different types of educational events held and the prices of the corresponding events set out by the operator under the contract.*

3.10 Audit examined the monthly reports of three CGSs (i.e. Eastern, Kwun Tong and Sha Tin CGSs) from January to June 2019, and noted that different methodologies were used by EPD in counting the number of regular educational events qualified for payment. For example, for regular educational events of the same content held on the same day for participants from the same organisation (see Table 5):

- (a) for two classes held at the same time slot, EPD counted them as two qualifying events (see Case A);
- (b) for two classes held at different time slots, EPD counted them as one qualifying event in one case (see Case B) and two qualifying events in another case (see Case C); and
- (c) for four classes held at two different time slots, EPD counted them as four qualifying events in one case (see Case D) and two qualifying events in another case (see Case E).

Table 5

**Different methodologies in counting the number of
regular educational events
(January to June 2019)**

Class (Note 1)	Time (Duration)	No. of participants (Note 2)	Counted as one qualifying event by EPD
Case A (Sha Tin CGS) on 20 February 2019			
1.	10:00 – 11:30 (1.5 hours)	28	Yes
2.	10:00 – 11:30 (1.5 hours)	28	Yes
Case B (Kwun Tong CGS) on 15 March 2019			
1.	09:30 – 10:30 (1 hour)	36	Yes
2.	10:35 – 11:40 (1 hour 5 minutes)	32	No
Case C (Kwun Tong CGS) on 29 June 2019			
1.	10:00 – 12:00 (2 hours)	60	Yes
2.	15:00 – 17:00 (2 hours)	16	Yes
Case D (Eastern CGS) on 22 January 2019			
1.	10:50 – 12:10 (1 hour 20 minutes)	28	Yes
2.	10:50 – 12:10 (1 hour 20 minutes)	22	Yes
3.	13:00 – 14:20 (1 hour 20 minutes)	22	Yes
4.	13:00 – 14:20 (1 hour 20 minutes)	27	Yes
Case E (Sha Tin CGS) on 19 March 2019			
1.	10:00 – 11:30 (1.5 hours)	29	Yes
2.	10:00 – 11:30 (1.5 hours)	31	Yes
3.	14:00 – 15:30 (1.5 hours)	28	No
4.	14:00 – 15:30 (1.5 hours)	28	No

Source: EPD records

Note 1: In each case, based on the monthly reports of the CGS operators, all the classes having the same content were conducted for participants from the same organisation on the same day.

Note 2: The number of participants for all classes met the minimum number of participants required for each regular educational event (i.e. at least 10 or at least 20 people).

3.11 In March 2020, EPD informed Audit that:

- (a) a large number of regular educational events had been organised by the operator of Sha Tin CGS (which also operated Kwun Tong CGS) in the initial operation period. EPD followed up with the operator with a view to achieving better use of available resources to meet all core services of CGS operation;
- (b) EPD and the operator then mutually agreed (through an e-mail from EPD to the operator in July 2016) that if members of a particular organisation joined regular educational events at different timeslots on the same day, only one regular educational event would be qualified for payment, so as to enhance the coverage of educational services to different users. The counting of events for subsequent payment was then based consistently on the agreement with the operator of Sha Tin CGS; and
- (c) for Case C, while the related monthly report indicated that the two classes were held for the same organisation, the participants were in fact from five schools (i.e. the two classes were requested by the organisation on behalf of the schools). Therefore, the two classes were counted as two qualifying educational events.

3.12 Audit noted that EPD had documented the agreed methodology for counting the number of regular educational events in an e-mail with the operator of Sha Tin CGS in July 2016 (see para. 3.11(b)). However, as the agreed methodology may also be applicable to other CGSs, and the payment to CGS operators and the compliance with the minimum quantity requirement are based on the number of qualifying educational events, in Audit's view, EPD needs to disseminate the methodology in counting the number of educational events held by CGSs to its staff and CGS operators, with a view to standardising the practice and facilitating operators' organisation of such events.

Scope for improving evaluation of educational events

3.13 According to EPD:

- (a) some CGS operators had conducted feedback surveys of participants for selected events; and
- (b) there was no specific contract requirement for CGS operators to conduct feedback survey for each educational event, and so the operators did not need to pass those feedback forms to EPD in regular reporting.

3.14 In Audit's view, since feedback surveys of participants provide useful information for evaluation of educational events held by CGSs, EPD needs to require CGS operators to conduct feedback surveys of participants for educational events held (e.g. including the requirement of conducting feedback surveys in operating contracts).

Audit recommendations

3.15 **Audit has *recommended* that the Director of Environmental Protection should:**

- (a) **early complete the review of the minimum quantity requirements for educational events, having regard to CGS operation and the need of local residents for such services;**
- (b) **share among CGS operators their experience in providing educational services (e.g. difficulties encountered) with a view to facilitating them to provide such services;**
- (c) **disseminate the methodology in counting the number of educational events held by CGSs to EPD staff and CGS operators, with a view to standardising the practice and facilitating CGS operators' organisation of such events; and**

- (d) **require CGS operators to conduct feedback surveys of participants for educational events held (e.g. including the requirement of conducting feedback surveys in operating contracts).**

Response from the Government

3.16 The Director of Environmental Protection generally agrees with the audit recommendations. She has said that:

- (a) EPD will review the minimum quantity requirements for educational events having regard to the practical constraints faced by CGS operators and the prevailing demand of local residents for such services. It would be more pragmatic to adopt an overall target collectively for on-site and outreach educational events;
- (b) EPD will arrange experience sharing workshops for all CGS operators from time to time;
- (c) while agreeing in principle to adopt a consistent counting method for all CGSs on the number of educational events completed, EPD will review the current counting method, taking into account the experience of different CGSs, and make allowance under the general contract specifications for adoption of an updated counting method; and
- (d) EPD will incorporate the requirement of conducting feedback surveys for regular educational events (where the participants will stay for around one hour) in the operating contracts. EPD will also consider the practicality of conducting feedback surveys for other types of educational events (e.g. educational booths) where the participants only stay for a short time in most cases.

Recyclables collection services

3.17 According to EPD, CGSs help the collection of different types of recyclables, especially those of low economic value (e.g. electrical appliances, computers, glass bottles and rechargeable batteries) in the local community. By focusing their services on the collection of low economic value recyclables, CGSs will serve to supplement the existing services of local private recyclers. Recyclables collection services also help encourage public participation in waste reduction and recovery to increase the quantity of materials recovered, and promote the “recycle clean” concept to enhance the quality of the recyclables.

3.18 According to the operating contracts of CGSs, in principle, in providing recyclables collection services, CGS operators should not compete with local recyclers, local recycling shops and existing recycling programmes. CGS operators should provide recyclables collection services to promote the following objectives:

- (a) to collect and recover materials, that would otherwise be disposed of as waste, for recycling and reuse;
- (b) to increase the recycling and recovery of waste in Hong Kong, and thereby reduce the waste intake into landfills;
- (c) to increase the volume of recyclables collected in Hong Kong and encourage the development of local commercially viable recycling technologies that turn recovered materials into products for material conservation;
- (d) to promote clean recycling and foster sustainability through reduce, reuse and recycle; and
- (e) to enhance community involvement in environmental and conservation issues.

3.19 ***Categories of recyclables collected.*** CGS operators generally collect two categories of recyclables:

- (a) ***Permitted recyclables.*** CGS operators collect the following permitted recyclables: (i) glass bottles; (ii) household appliances (including electrical and electronic equipment); (iii) computers and accessories; (iv) rechargeable batteries; (v) compacted fluorescent lamps and fluorescent tubes; (vi) paper; (vii) metals; and (viii) plastics; and
- (b) ***Secondary recyclables.*** CGS operators may collect any type of secondary recyclables with EPD's consent, including toner cartridges, old clothing and textiles, books and toys.

3.20 According to EPD:

- (a) in general, the quantity measured for payment purposes should only include permitted recyclables, but not secondary recyclables; and
- (b) under the General and Particular Specifications of the operating contracts, other recyclables, including secondary recyclables, may be considered as permitted recyclables with the agreement of EPD. EPD will give consent to the operators as and when necessary following the operational plans for specific educational events.

3.21 ***Recyclables collection services network.*** According to the operating contracts, CGS operators collect recyclables through the following channels:

- (a) ***In-station collection at CGS.*** CGS operators need to ensure that the station is open during the opening hours to receive, sort and weigh recyclables delivered to the station (see Photograph 8 for an example);
- (b) ***Mobile collection points at public places.*** CGS operators need to maintain not fewer than the specified minimum number of mobile collection points

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(at least three hours at each collection point) at public places per week (Note 20) to collect recyclables (see Photograph 9 for an example). These mobile collection points should be located in suitable locations so as to provide recycling support to areas lacking recycling facilities;

- (c) **Housing collection points.** CGS operators need to connect with housing estates and property management companies in their districts to establish the service network to collect recyclables; and
- (d) **Other facility collection points.** CGS operators need to set up collection points at other suitable sites (e.g. schools and social service organisations) in the districts to collect recyclables.

CGS operators also need to operate collection vehicles for the receipt of recyclables from different collection points.

Photograph 8

Collection of recyclables at Eastern CGS



Source: Photograph taken by Audit staff in November 2019

Note 20: Under the current operating contracts, CGS operators need to maintain not less than 10 mobile collection points at public places per week to collect recyclables, and the 10 collection points should be from 10 different places.

Photograph 9

**Mobile collection point at public place
maintained by Kwun Tong CGS operator**



*Source: Photograph taken by Audit staff in
December 2019*

3.22 According to the operating contracts, CGS operators should reject those recyclables that do not meet the specified acceptance standards (Note 21) and ensure that such unacceptable recyclables are removed from the collection points or CGS. CGS operators are required to ensure that all recyclables collected are sent to suitable recyclers for proper handling and recycling instead of being disposed of at landfills. For secondary recyclables collected, such as used books and old clothing, CGS operators may also distribute them through donation and exchange programmes.

Note 21: *Under the operating contracts, CGS operators should reject recyclables if they: (a) appear to have been tampered with water to increase their weight; (b) are contaminated; (c) are mixed with other waste; (d) do not meet specified requirements imposed by EPD; or (e) do not meet the standards required by the downstream recyclers.*

Minimum tonnage requirements for recyclables collection not met by some CGSs and scope for collecting more types of recyclables

3.23 According to the operating contracts, CGS operators are required to provide recyclables collection services no less than the minimum tonnage requirements of recyclables (see Appendix C — Note 22). For the seven CGSs which commenced operation between 2015 and 2018 (see items 1 to 7 in Table 2 in para. 1.8), Audit noted that for the first contract year under the first operating contract of Sha Tin CGS (24 November 2014 to 23 November 2015), Kwai Tsing CGS (1 June 2018 to 31 May 2019) and Sham Shui Po CGS (1 April 2017 to 31 March 2018), the quantities of recyclables collected fell short of the minimum tonnage requirements by 6% to 39% (see Table 6).

Table 6

**Minimum tonnage requirements for recyclables collection
not met by three CGSs
(November 2014 to May 2019)**

CGS	Contract period	Recyclables collected (Tonnes)		
		Minimum requirement (a)	Actual (b)	Below minimum requirement (c) = (a) – (b)
Sha Tin	24.11.2014 to 23.11.2015	100	94	6 (6%)
Kwai Tsing	1.6.2018 to 31.5.2019	200	161	39 (20%)
Sham Shui Po	1.4.2017 to 31.3.2018	100	61	39 (39%)

Source: EPD records

Note 22: For operating contracts commencing before November 2017, the minimum tonnage requirement only counts the quantities of permitted recyclables collected. For operating contracts commencing since November 2017, the minimum tonnage requirement counts the quantities of both permitted and secondary recyclables collected (see also para. 3.19). According to EPD, the reasons for including secondary recyclables in the minimum tonnage requirement are: (a) to encourage the public to recycle and reuse materials that are in good condition and still usable; and (b) to provide convenient collection channels in the local community to accept usable second-hand materials for circulation in society, so as to cultivate a habit of “Waste Less, Save More”.

3.24 In March 2020, EPD informed Audit that:

- (a) there were specific circumstances leading to the quantities of recyclables collected falling short of the minimum tonnage requirements for the three CGSs (see para. 3.23), such as delayed delivery of facilities to the operators and extra lead time required to establish collection network during the initial operation; and
- (b) the quantities of recyclables collected by these CGS operators in subsequent contract periods had substantially exceeded the minimum tonnage requirements, as follows:
 - (i) for Sha Tin CGS, the quantities of recyclables collected in the second contract year (24 November 2015 to 23 November 2016) and third contract year (24 November 2016 to 23 November 2017) under the first operating contract exceeded the minimum tonnage requirements by 22% and 56% respectively;
 - (ii) for Kwai Tsing CGS, the quantities of recyclables collected in the 6-month period of the second contract year (1 June 2019 to 30 November 2019) exceeded the minimum tonnage requirement (half of the contract requirement for the whole-contract year) by 29%; and
 - (iii) for Sham Shui Po CGS, the quantities of recyclables collected in the second contract year (1 April 2018 to 31 March 2019) exceeded the minimum tonnage requirement by 86%.

3.25 According to EPD, the three CGS operators did not meet the minimum tonnage requirements during their initial operation due to specific circumstances, and they substantially exceeded the minimum tonnage requirements in subsequent contract periods (see para. 3.24). Audit noted that the minimum tonnage requirements for the first contract year were lower than subsequent contract years under the CGS operating contracts (see Appendix C). In Audit's view, EPD needs to keep under review the minimum tonnage requirements for collection of recyclables, having regard to the operation of and difficulties encountered by CGS operators.

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3.26 Regarding the types of recyclables collected by the seven CGSs (see para. 3.23) in 2018 (see Table 7), Audit noted that glass bottles (about 74%) and household appliances and computers (about 14%) accounted for most of the recyclables collected in terms of weight. Other types of recyclables collected were on the low side (e.g. compacted fluorescent lamps and fluorescent tubes and rechargeable batteries). As CGSs help the collection of different types of recyclables in the local community (see para. 3.17), there is merit for EPD to encourage CGS operators to publicise the collection services for different types of recyclables.

Table 7

**Types of recyclables collected by seven CGSs
(2018)**

Type of recyclables	Tonnes
Permitted recyclables	
Glass bottles	1,555.7 (74%)
Household appliances and computers	303.8 (14%)
Paper	90.4 (4%)
Plastics	59.1 (3%)
Compacted fluorescent lamps and fluorescent tubes	16.2 (1%)
Metals	12.9 (1%)
Rechargeable batteries	5.0 (1%)
Secondary recyclables	41.3 (2%)
Total	2,084.4 (100%)

Source: EPD records

Scope for improving service network of CGSs

3.27 CGS operators set up service network for collection of recyclables in their districts. For the seven CGSs (see para. 3.23), during the period from January to June 2019, recyclables collected through housing collection points and other facility collection points (e.g. schools and social service organisations), in-station collection and mobile collection points at public places are shown in Table 8.

Table 8

**Recyclables collected through different channels by seven CGSs
(January to June 2019)**

Collection channel	Tonnes
(a) Housing collection points and other facility collection points (Note)	1,069.2 (76%)
(b) In-station collection	232.8 (16%)
(c) Mobile collection points at public places	112.2 (8%)
Total	1,414.2 (100%)

Source: EPD records

Note: According to EPD, breakdown of quantities of recyclables collected through housing collection points and other facility collection points was not readily available.

3.28 Regarding the service network of the seven CGSs, Audit noted room for improvement in the following areas:

- (a) ***Need to document the calculation of coverage rate of housing collection points.*** According to the annual summaries of monthly reports submitted by the seven CGS operators, the coverage rate of housing collection points (Note 23) ranged from about 65% to 90% of the population in residential area in their districts (see Table 9). However, the calculation of the coverage rate (i.e. population served by each housing collection point and population of the districts) was not included in the annual summaries of monthly reports. Neither had EPD documented its verification of the calculation. In Audit's view, EPD needs to require CGS operators to include the calculation of the coverage rate of housing collection points in the annual summaries of monthly reports for EPD's verification; and

Note 23: *According to EPD, the coverage rate of housing collection points refers to the percentage of population in the corresponding residential area in the districts that are served by CGS's collection services.*

Table 9

Coverage rate of housing collection points of CGSs
(September 2018 to May 2019)

CGS	Position	No. of housing collection points	Coverage rate of population in residential area in the district
Sha Tin	November 2018	156	90 %
Eastern	April 2019	144	90 %
Kwun Tong	September 2018	96	90 %
Kwai Tsing	May 2019	66	80 %
Tuen Mun	May 2019	117	75 %
Yuen Long	October 2018	121	70 %
Sham Shui Po	March 2019	73	65 %

Source: EPD records

- (b) ***Need to review the approach for provision of mobile collection points at public places.*** Under the operating contracts, CGS operators need to maintain not fewer than the specified minimum number of mobile collection points (at least three hours at each collection point) at public places per week to collect recyclables, and the collection points should be located in suitable locations so as to provide recycling support to areas lacking recycling facilities (see para. 3.21(b)). Audit noted that comparatively low quantities of recyclables were collected at mobile collection points (about 8% of the total recyclables collected by the seven CGSs from January to June 2019 — see item (c) in Table 8 in para. 3.27). In March 2020, EPD informed Audit that:
- (i) the implementation of ad-hoc mobile collection points met a number of practical challenges, including, for instance, the need for approval by relevant authorities on collection point locations and weather conditions;
 - (ii) EPD considered that the operation of mobile collection points at specific time of a week and location might better serve the needs of local community. This alternative approach would also reduce

uncertainty in connection with seeking the approval of the relevant authorities for the collection point locations from time to time; and

- (iii) EPD was exploring a suitable approach for adoption in future CGS operating contracts.

In Audit's view, EPD needs to expedite the review on the approach for provision of mobile collection points at public places to collect recyclables with a view to better serving the local community's waste recycling needs.

Storage specification for recyclables not met by CGSs

3.29 According to the operating contracts, regarding storage of recyclables at CGSs, CGS operators should:

- (a) store recyclables in a safe manner without causing nuisance and adverse environmental impact to the environment, and for periods as short as practicable; and
- (b) in no cases, without prior consent from EPD, store recyclables at the stations for longer than 7 days (i.e. 7-day maximum storage specification).

3.30 For the seven CGSs which commenced operation between 2015 and 2018, Audit examined their monthly reports (Note 24) submitted to EPD for the 9-month period from October 2018 to June 2019, and noted that all the seven CGSs had not met the 7-day maximum storage specification for the recyclables collected during the 9-month period (see Table 10). The storage period for some types of recyclables was relatively long (e.g. rechargeable batteries were stored in the seven CGSs for 86 to 297 days, which were far longer than the 7-day maximum storage specification).

Note 24: *The monthly reports showed: (a) recyclables collection dates from mobile collection points at public places, housing collection points and other facility connection points; and (b) recyclables delivery dates to recyclers. The duration between these two dates was taken as the storage time at the CGSs.*

Table 10

**Seven CGSs not meeting the 7-day maximum storage specification
(October 2018 to June 2019)**

Type of recyclables	Storage time longer than 7-day maximum storage specification	
	No. of CGSs	Storage time
Rechargeable batteries	7 (100%)	86 to 297 days
Compacted fluorescent lamps and fluorescent tubes	7 (100%)	28 to 112 days
Computers and accessories	4 (57%)	8 to 132 days
Household appliances	3 (43%)	14 to 148 days
Metals	3 (43%)	24 to 106 days
Plastics	3 (43%)	17 to 84 days
Paper	3 (43%)	9 to 55 days
Glass bottles	— (0%)	N/A

Source: Audit analysis of EPD records

3.31 In March 2020, EPD informed Audit that:

- (a) the 7-day maximum storage specification was introduced at the very beginning of the CGS project initiative to address local community's concern that "dirty waste" might be stored at CGSs which would cause nuisance to the public;
- (b) with the promotion of "clean recycling" at CGSs in these years, recyclables received and stored at CGSs were generally in good hygiene condition and did not cause any nuisance to local community. Hence, storage duration was no longer considered as an environmental issue; and
- (c) subject to actual quantities of recyclables received, available storage capacity at CGSs and logistic arrangement of the downstream recyclables outlets, EPD had given consent during regular site inspections for CGS operators to store recyclables at their storage area for longer than 7 days.

3.32 In view of the changes in circumstances as mentioned by EPD in paragraph 3.31, Audit considers that EPD needs to review the 7-day maximum storage specification for storage of recyclables, having regard to the latest operating conditions of CGSs and hygiene conditions of recyclables stored therein.

Audit recommendations

3.33 **Audit has *recommended* that the Director of Environmental Protection should:**

- (a) **keep under review the minimum tonnage requirements for collection of recyclables, having regard to the operation of and difficulties encountered by CGS operators;**
- (b) **encourage CGS operators to publicise the collection services for different types of recyclables;**
- (c) **require CGS operators to include the calculation of the coverage rate of housing collection points in the annual summaries of monthly reports for EPD's verification;**
- (d) **expedite the review on the approach for provision of mobile collection points at public places to collect recyclables with a view to better serving the local community's waste recycling needs; and**
- (e) **review the 7-day maximum storage specification for storage of recyclables, having regard to the latest operating conditions of CGSs and hygiene conditions of recyclables stored therein.**

Response from the Government

3.34 The Director of Environmental Protection generally agrees with the audit recommendations. She has said that EPD:

- (a) will review the minimum tonnage requirements for collection of recyclables, particularly taking into account the common difficulties encountered by the operators during the initial contract period;

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- (b) subject to the availability of downstream outlets and associated handling capacity for individual types of recyclable, will encourage CGS operators to publicise the collection services for different types of recyclables;
- (c) will update the monthly report template to include the calculation of the coverage rate of housing collection points to facilitate regular planning of off-site collection activities;
- (d) will expedite the review on the approach for provision of mobile collection points at public places to collect recyclables with a view to better serving local community's waste recycling needs; and
- (e) has decided to remove the 7-day maximum storage specification from the contract requirements starting from next batch of operating contracts.

Visitors' patronage of Community Green Stations

3.35 According to EPD, the opening hours of a CGS for recycling services are from 8 am to 8 pm (from Monday to Sunday), and that for administration office are from 8 am to 6 pm (from Tuesday to Sunday). The number of visitors to a CGS include:

- (a) walk-in visitors (e.g. visitors placing recyclables at the CGS);
- (b) participants of educational events held at the CGS;
- (c) participants of visitors reception services at the CGS (see para. 3.40); and
- (d) users of multi-purpose rooms at the CGS (booked by the public for holding activities).

Scope for improving the counting methodology for visitors to CGSs

3.36 CGS operators report the number of visitors to CGSs in the monthly reports submitted to EPD. According to EPD, some CGS operators counted the number of visitors manually while other CGS operators counted the number by installing electronic counters at the boundary of CGSs. Audit considers that EPD needs to review the effectiveness of CGS operators' methodologies for counting the number of visitors with a view to enhancing the counting methodologies.

Number of visitors to some CGSs less than expected

3.37 In March 2016, in discussing the funding for development of CGSs and the cost effectiveness of CGS projects, EPD informed the Finance Committee of LegCo that the expected number of daily visitors received by each CGS could achieve 100 on average. Regarding the numbers of visitors to five CGSs which commenced operation between 2015 and 2017 (see Table 11), Audit noted that:

- (a) while the expected number of visitors received by each CGS was about 35,300 visitors per year (i.e. 100 visitors \times 353 days — Note 25), for 4 (80%) of the 5 CGSs, visitors received fell short of this number in all years with a full-year operation; and
- (b) the numbers of visitors to 3 CGSs (i.e. Sha Tin, Kwun Tong and Yuen Long CGSs) decreased by 17%, 6% and 26% respectively from 2017 to 2018.

Note 25: *According to the operating contracts, the whole station of each CGS may be closed for not more than 12 days in a year. Accordingly, assuming the whole station of CGS is closed for 12 days, CGS will receive visitors for 353 (i.e. 365 less 12) days in a year.*


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Table 11

**Number of visitors to five CGSs
(May 2015 to June 2019)**

Year	No. of visitors				
	Sha Tin CGS	Eastern CGS	Kwun Tong CGS	Yuen Long CGS	Sham Shui Po CGS
2015	12,940	18,447	N/A	N/A	N/A
2016	34,526	124,933	N/A	N/A	N/A
2017	33,982	182,526	32,609	29,580	9,213
2018	28,172	189,520	30,556	21,926	31,786
2019 (up to June)	16,152	104,772	16,834	14,454	15,395

Operation commencement date	May 2015	August 2015	January 2017	January 2017	October 2017
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Legend:  Below the expected number of 35,300 visitors per year for a CGS with a full-year operation

Source: EPD records

3.38 In March 2020, EPD informed Audit that:

- (a) CGS operators had been required since November 2017 to provide outreach regular educational events in addition to on-site regular educational events at CGSs (see para. 3.5(a)). The diversion of resources to meet the new service requirement resulted in a lower level of on-site activities, and hence the associated number of visitors; and
- (b) EPD considered that the level of services provided by individual CGSs should not only be measured by the number of visitors to CGSs, but also include the number of persons served by CGSs' outreach activities.

3.39 Audit noted that while EPD had set the expected number of on-site visitors, it had not set the expected number of persons served by the new outreach activities (see para. 3.38(a)). In Audit's view, EPD needs to review the expected number of persons served by both on-site and outreach activities of CGSs with a view to fully reflecting the service level of CGSs. EPD also needs to monitor the achievement of the expected number as adopted after the review.

Visitors reception services for some CGSs not provided as required

3.40 For operating contracts commencing since November 2017, CGS operators are required to provide visitors reception services. Under the services, CGS operators have to schedule and provide weekly at least 10 guided tours each followed by a hands-on recycling workshop of at least 30 minutes for the visitors, and the services should be provided regardless of number of people, walk-in or pre-booked. Under the operating contracts, visitors reception services provided are not measured for payment to CGS operators.

3.41 As of June 2019, there were four CGSs with visitors reception services provided for more than one year (i.e. Sha Tin, Eastern, Tuen Mun and Kwai Tsing CGSs). For the 26-week period from January to June 2019, Audit noted that the number of visitors reception services provided by the four CGSs fell short of the minimum requirement of 260 (i.e. 26 weeks \times 10 occasions), ranging from 3 occasions (with 22 participants) for Sha Tin CGS to 249 occasions (with 943 participants) for Eastern CGS (see Table 12).

Table 12

**Visitors reception services provided by four CGSs
(January to June 2019)**

CGS (Note)	No. of visitors reception services	No. of participants
Sha Tin	3	22
Tuen Mun	12	38
Kwai Tsing	18	73
Eastern	249	943

Source: EPD records

Note: Sha Tin, Tuen Mun, Kwai Tsing and Eastern CGSs had been required to provide visitors reception services since November 2017, June 2018 (for both Tuen Mun and Kwai Tsing CGSs) and April 2018 respectively.

3.42 In April 2020, EPD informed Audit that as there had been notable changes in the community's demand for visitors reception services, it would review and revise the relevant contract specifications accordingly.

Scope for enhancing publicity of CGSs

3.43 According to the operating contracts, each CGS operator is required to set up and operate a website to disseminate information regarding the facility and the services provided. Audit noted that CGSs in operation provided details of their services via social media. Audit examined the information provided on the social media pages of eight CGSs (i.e. CGSs at Sha Tin, Eastern, Kwun Tong, Yuen Long, Sham Shui Po, Tuen Mun, Kwai Tsing and Tai Po) and noted the following:

- (a) ***Scope for providing more timely information on activities to be conducted.***
Under the operating contracts, CGS operators are required to provide on websites schedules of forthcoming seminars and community events to be conducted. Based on information posted onto the social media pages of the eight CGSs from January to June 2019, Audit noted that for one CGS, an activity (i.e. collection of recyclables at a mobile collection point) had been held (i.e. 1 June 2019) before the schedule of activities was uploaded onto

the social media pages (i.e. 6 June 2019). In Audit's view, EPD needs to remind CGS operators to timely disseminate information on activities to be conducted;

- (b) ***Exact locations of some mobile collection points not specified.*** Under the operating contracts, CGS operators are required to provide on websites updated lists of public place collection points and housing developments for which a housing collection is provided. Based on the social media pages of the eight CGSs as of December 2019, Audit noted that the locations of some mobile collection points at public place for recyclables were not clearly indicated. For example, the names of housing estates were listed without specifying the exact locations. In Audit's view, EPD needs to remind CGS operators to provide exact locations of mobile collection points for recyclables on their social media pages to facilitate the public in identifying the collection points; and
- (c) ***Need to promulgate the arrangements for on-line booking of multi-purpose rooms.*** According to the operating contracts, each CGS operator should operate a website which provides arrangements for on-line booking of multi-purpose rooms. According to EPD, there is a function on the social media pages of CGSs allowing interested parties to send messages to CGSs on booking arrangements. However, Audit noted that the availability of such booking arrangements was not indicated on the social media pages of CGSs. In Audit's view, EPD needs to remind CGS operators to promulgate the arrangements for on-line booking of multi-purpose rooms on their social media pages.

Audit recommendations

3.44 **Audit has recommended that the Director of Environmental Protection should:**

- (a) **review the effectiveness of CGS operators' methodologies for counting the number of visitors with a view to enhancing the counting methodologies;**
- (b) **review the expected number of persons served by both on-site and outreach activities of CGSs with a view to fully reflecting the service**

level of CGSs and monitor the achievement of the expected number as adopted after the review; and

- (c) remind CGS operators to:**
 - (i) timely disseminate information on activities to be conducted;**
 - (ii) provide exact locations of mobile collection points for recyclables on their social media pages to facilitate the public in identifying the collection points; and**
 - (iii) promulgate the arrangements for on-line booking of multi-purpose rooms on their social media pages.**

Response from the Government

3.45 The Director of Environmental Protection generally agrees with the audit recommendations. She has said that EPD will:

- (a) review the methodologies adopted by different CGS operators for physical counting of the number of visitors to enhance their effectiveness;**
- (b) review the current reporting requirement on the number of on-site visitors to allow a more comprehensive reflection of both on-site and off-site services provided by CGSs;**
- (c) invite the CGS operator concerned to look into the specific case held on 1 June 2019 as mentioned in paragraph 3.43(a) and, where appropriate, adopt necessary enhancement to current practice;**
- (d) while some of the CGSs provide exact locations of mobile collection points in the form of maps and photographs on their social media pages, invite all CGS operators to adopt the same good practice; and**
- (e) remind CGS operators to promulgate the arrangements for on-line booking of multi-purpose rooms.**

PART 4: OTHER MANAGEMENT ISSUES

4.1 This PART examines other management issues of CGSs, focusing on actions taken by EPD on:

- (a) inspection of CGSs (paras 4.2 to 4.10);
- (b) vetting of reports submitted by CGS operators and monitoring their compliance with reporting requirements (paras. 4.11 to 4.26); and
- (c) specification of quantities in Bills of Quantities (BQ) and minimum service requirements (paras. 4.27 to 4.32).

Inspection of Community Green Stations

4.2 To monitor the performance and operation of CGSs and to ensure that CGS operators manage CGSs properly and comply with the contractual requirements (including operational requirements on environment, hygiene, occupational safety and health), EPD carries out inspections and monitoring work on a regular basis.

4.3 According to EPD guidelines, EPD staff periodically conduct inspections of recyclables collection services, educational services and facilities of CGSs, as follows:

- (a) ***Routine inspection.*** Environmental Protection Inspectors are required to conduct inspections (Note 26) of:
 - (i) recyclables collection services, with frequency of four inspections per month for each CGS. The inspections include recording any malpractice in handling recyclables, checking if there is any unacceptable contamination of the collected recyclables, and

Note 26: *According to EPD guidelines, an inspection roster should be prepared by Senior Environmental Protection Inspectors, with at least one ad-hoc inspection per month for each CGS.*

Other management issues

checking whether the recyclables are properly weighed and recorded precisely in the record sheet;

- (ii) educational services, with frequency of four inspections per month for each CGS. The inspections include recording the number of attendants, duration of events and area for improvements; and
 - (iii) facilities of CGSs, with frequency of one inspection per month for each CGS. The inspections include checking staff attendance records, collection and delivery records of recyclables, and booking records and usage of multi-purpose rooms; and
- (b) ***Supervisory check.*** Senior Environmental Protection Inspectors should arrange surprise check inspections at least once per month to ensure that the inspectors are on duty to monitor CGS operators' performance as scheduled. In addition, Environmental Protection Officers should perform surprise supervisory checks on inspections quarterly.

4.4 For routine inspections, EPD has designed standard inspection forms for each type of inspections (i.e. recyclables collection services, educational services and facilities of CGSs) to facilitate the inspection work. According to EPD guidelines, the inspectors should record the inspection results on the specified standard inspection forms, which includes a checklist to indicate whether the requirements or conditions are complied with or satisfactory.

Need to timely update inspection guidelines and related inspection forms

4.5 Audit noted that EPD had introduced special community events and visitors reception services (see paras. 3.5(c) and 3.40) for operating contracts commencing since November 2017. According to EPD, the routine inspection conducted on educational services (see para. 4.3(a)(ii)) had included inspection of such events and services. However, EPD guidelines and related inspection forms (revised in February 2017) did not cover inspection of such events and services.

4.6 In March 2020, EPD informed Audit that:

- (a) apart from the master guidelines, EPD also issued supplementary instructions to EPD frontline staff through e-mails and team meetings from time to time, particularly when there were new initiatives or practices; and
- (b) as a general practice, EPD staff would conduct inspections of CGSs in accordance with EPD guidelines and in conjunction with supplementary instructions issued. In some cases, EPD staff may provide supplement sheet for better illustration of their observations.

4.7 In Audit's view, EPD needs to timely update the inspection guidelines and the related inspection forms to cover new types of events and services included in the operating contracts of CGSs.

***Scope for improving the keeping of inspection records
and the analysis of inspection results***

4.8 Audit examined the routine inspection records from January to June 2019 for the six CGSs which commenced operation between 2015 and September 2018 (see items 1 to 6 in Table 2 in para. 1.8) and noted the following:

- (a) ***Need to document the analysis of inspection results.*** According to EPD, if any observations including irregularities are found during inspections of CGSs, its staff will provide comments, advice or assistance to the CGS operators to rectify (particularly irregularity) at once to minimise the effect. Audit analysed the observations recorded on the checklists of the 298 inspections for the six CGSs from January to June 2019 and noted that:

Other management issues

- (i) a total of 235 observations (Note 27) were found in 146 inspections (Note 28) and the nature was recorded in the inspection forms (see Table 13); and
- (ii) some observations were frequently found during routine inspections. For example, from January to June 2019, 22 observations were related to “unacceptable recyclables were found in recycling bins” in five of the six CGSs (ranging from 1 to 13 observations for each CGS).

In March 2020, EPD informed Audit that the CGS team had shared latest inspection observations on a routine basis, for instance, at regular team meetings and followed up on observations of a recurrent nature (e.g. poor greening results in certain sites). However, Audit noted that EPD had not documented the analysis of the observations found. In Audit’s view, EPD needs to document the analysis of the observations found during inspections with a view to identifying those commonly found for assessing the need for helping CGS operators enhance their operation; and

Note 27: *According to EPD, many of the observations were relatively trivial or not related to specific contract requirements, which could be rectified or adjusted on the spot upon on-site communication with the operators during inspection.*

Note 28: *For the remaining 152 (298 – 146) inspections, no observations were noted on the checklists of the inspection forms.*

Table 13

**Nature of observations found in routine inspections for six CGSs
(January to June 2019)**

Nature of observations	No. of observations
(a) Recyclables without proper labelling with date and source	47
(b) Participants' feedback for the workshop experience and expectation was not collected	37
(c) Upcoming events were not promoted	27
(d) Workshops and teaching materials were not customised to address particular outcomes and specific participants	24
(e) Unacceptable recyclables were found in recycling bins	22
(f) Damage/defect of CGS facilities (e.g. site wall, gates and failure of cameras of security closed-circuit television system)	22
(g) Grass and plants were not in tidy and healthy condition	13
(h) Others (Note)	43
Total	235

Source: Audit analysis of EPD records

Note: Other observations included, for example, recyclables stored at the facility for longer than 7 days without EPD's prior consent, "one-time-use" items/disposable materials used for the workshop and nuisance caused to nearby residents and disturbance to traffic.

- (b) ***Need to explore the use of information technology for keeping inspection records of CGSs.*** Audit noted that the standard inspection forms for routine inspections were in manual form. In Audit's view, there is scope for EPD to explore the use of information technology for keeping such records.

Audit recommendations

4.9 **Audit has *recommended* that the Director of Environmental Protection should:**

- (a) **timely update EPD inspection guidelines and the related inspection forms to cover new types of events and services included in the operating contracts of CGSs;**
- (b) **document the analysis of the observations found during inspections with a view to identifying those commonly found for assessing the need for helping CGS operators enhance their operation; and**
- (c) **explore the use of information technology for keeping inspection records of CGSs.**

Response from the Government

4.10 The Director of Environmental Protection generally agrees with the audit recommendations. She has said that EPD will:

- (a) arrange more regular updating to the operating guidelines (including incorporating the supplementary instructions) and the related inspection forms;
- (b) apart from following up promptly all observations from routine inspections as usual, make it a standing practice to conduct regular analysis of the inspection results and discuss the analysis at regular team meetings; and
- (c) riding on its experience in other field operations, develop an electronic inspection form to allow on-site and real-time recording of the inspection results and to facilitate analysis of the inspection results.

Vetting of reports submitted by Community Green Station operators and monitoring their compliance with reporting requirements

4.11 According to the operating contracts, a CGS operator should keep records and provide reports to EPD on a regular basis to meet the following objectives:

- (a) to provide information on the usage of facility;
- (b) to demonstrate that the CGS operator is properly meeting the requirements of the contract; and
- (c) to identify procedures that may require improvement.

4.12 According to EPD, it reviews performance of each CGS through vetting of and providing comments on reports submitted by the CGS operator, including monthly reports, quarterly reports and annual summaries of monthly reports.

Scope for enhancing the reporting and vetting of recyclables collected and dispatched

4.13 According to EPD, CGS operators are required to ensure that all recyclables collected are sent to suitable recyclers for proper handling and recycling instead of being disposed of at landfills (see also para. 3.22). According to the operating contracts, CGS operators are required to prepare monthly reports showing approximate weights of permitted recyclables collected and dispatched. According to EPD, while the operating contracts do not have specific requirement for CGS operators to report the quantities of secondary recyclables received and dispatched, it has administratively required the operators to report such quantities in the monthly reports.

4.14 Audit examined the monthly reports of the seven CGSs (which commenced operation between 2015 and 2018 — see items 1 to 7 in Table 2 in para. 1.8) since contract commencement dates and up to June 2019 for the cumulative weights of recyclables collected and dispatched for both permitted and secondary recyclables, and noted the following:

Other management issues

- (a) ***Significant differences between the cumulative weights collected and dispatched of some permitted recyclables.*** Audit compared the cumulative weights of permitted recyclables collected and dispatched for the seven CGSs since commencement of contracts and up to June 2019, and noted that, for some types of permitted recyclables, there were significant differences between the cumulative weights of recyclables collected and dispatched. For example:
- (i) for Sha Tin CGS, the cumulative weight of paper collected was about 215% less than that dispatched (see Table 14); and
 - (ii) for Yuen Long CGS, the cumulative weight of compacted fluorescent lamps and fluorescent tubes collected was about 32% more than that dispatched (see Table 14); and

Table 14

Differences between cumulative weights of permitted recyclables collected and dispatched for two CGSs (November 2014 to June 2019)

Type of permitted recyclables	Cumulative weight of permitted recyclables (kg)		
	Collected (a)	Dispatched (b)	Difference (c) = (a) – (b)
(a) Sha Tin CGS (contract commenced in November 2014)			
1. Compacted fluorescent lamps and fluorescent tubes	17,058	13,116	3,942 (23%)
2. Rechargeable batteries	3,113	2,457	656 (21%)
3. Glass bottles	1,230,232	1,204,529	25,703 (2%)
4. Household appliances and computers	258,351	258,627	-276 (0%)
5. Plastics	6,774	8,895	-2,121 (-31%)
6. Metals	1,552	2,161	-609 (-39%)
7. Paper	7,771	24,512	-16,741 (-215%)
(b) Yuen Long CGS (contract commenced in October 2016)			
1. Compacted fluorescent lamps and fluorescent tubes	7,615	5,147 (Note)	2,468 (32%) (Note)
2. Rechargeable batteries	3,389	3,095	294 (9%)
3. Glass bottles	550,093	538,450	11,643 (2%)
4. Household appliances and computers	154,303	157,146	-2,843 (-2%)
5. Metals	10,252	10,848	-596 (-6%)
6. Plastics	20,254	22,940	-2,686 (-13%)
7. Paper	71,707	81,508	-9,801 (-14%)

Source: Audit analysis of related CGS monthly reports submitted to EPD

Note: According to EPD, for Yuen Long CGS, about one tonne of compacted fluorescent lamps and fluorescent tubes dispatched to the downstream recycler during the period had not been taken into account in assessing the difference in the cumulative weights of compacted fluorescent lamps and fluorescent tubes collected and dispatched. However, Audit noted that such dispatched quantity was not recorded in the monthly reports submitted to EPD.

Other management issues

- (b) *Significant differences between the cumulative weights collected and dispatched of secondary recyclables.* CGS operators may collect any type of secondary recyclables with EPD's consent. For secondary recyclables collected, such as used books and old clothing, CGS operators may distribute them through donation and exchange programmes. Audit compared the cumulative weights of secondary recyclables collected and dispatched for the seven CGSs since commencement of contracts and up to June 2019, and noted that there were significant differences between the cumulative weights of secondary recyclables collected and dispatched, ranging from 14% to 97% of secondary recyclables collected (see Table 15).

Table 15

**Differences between cumulative weights of secondary recyclables collected and dispatched
(November 2014 to June 2019)**

CGS	Contract commencement date	Cumulative weight of secondary recyclables (kg)		
		Collected (a)	Dispatched (b)	Difference (c) = (a) – (b)
Eastern	April 2015	53,278	1,840	51,438 (97%)
Sham Shui Po	April 2017	24,411	1,797	22,614 (93%)
Kwai Tsing	June 2018	5,998	1,302	4,696 (78%)
Kwun Tong	September 2016	11,280	4,937	6,343 (56%)
Yuen Long	October 2016	43,317	19,966	23,351 (54%)
Sha Tin	November 2014	30,607	15,028	15,579 (51%)
Tuen Mun	June 2018	3,199	2,749	450 (14%)

Source: Audit analysis of EPD records

4.15 In response to Audit's enquiries of the significant differences between the cumulative weights collected and dispatched of recyclables as mentioned in paragraph 4.14, in March and April 2020, EPD informed Audit that:

- (a) the General Specifications of the operating contracts allowed EPD to designate other recyclables as permitted recyclables from time to time. Secondary recyclables that were not suitable for re-distribution nor donation

could be designated as permitted recyclables and delivered to appropriate downstream recyclers for recycling. EPD had given consent from time to time for CGS operators to turn some of the secondary recyclables collected into permitted recyclables, upon following the operation plan for specific educational events. This clarified why certain portion of secondary recyclables were reported as quantities of permitted recyclables dispatched (see (b)(i) and (c)(ii) below);

- (b) for permitted recyclables:
 - (i) the dispatched quantities of permitted recyclables also included those unused secondary recyclables and materials collected which could not be re-distributed or donated within a reasonable time period (see (c)(ii) below). This, to a large extent, explained why some types of permitted recyclables had cumulative weight collected less than that dispatched;
 - (ii) due to transitional issues of some downstream recyclers, there was a surge of the quantity of certain types of permitted recyclables stored at CGSs as at June 2019, such as compacted fluorescent lamps and fluorescent tubes, which had yet to be dispatched; and
 - (iii) CGS operators accepted compacted fluorescent lamps and fluorescent tubes with packaging materials. The downstream recycler had an established practice to remove all packaging materials before weighing the recyclables received, and this contributed to difference in the cumulative weights of recyclables collected and dispatched by CGS operators; and
- (c) for secondary recyclables, the cumulative weights collected were more than that dispatched due to the following reasons:
 - (i) the dispatched quantities of secondary recyclables in the monthly reports only included a portion of recyclables successfully distributed in exchange programmes or donated to charitable organisations. For some CGSs, such as Eastern and Sham Shui Po CGSs, a standing flea market had been set up by each CGS operator for free distribution of significant quantities of secondary

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recyclables collected, which were not included in the dispatched quantities in the monthly reports submitted by CGS operators;

- (ii) some of the collected secondary recyclables were sent to downstream recyclers as permitted recyclables (e.g. paper, plastics, metals and household appliances and computers) when they could not be re-distributed or donated within a reasonable time period (see (b)(i) above); and
- (iii) there was a surge of the quantities of secondary recyclables stored at CGSs as at June 2019.

4.16 While noting EPD's explanations for the differences between the cumulative weights of permitted and secondary recyclables collected and dispatched, in Audit's view, there is scope for enhancing the reporting by CGS operators and vetting by EPD with a view to providing a better way for monitoring the flow of recyclables and whether the recyclables are properly handled. As CGS operators are required to ensure that all recyclables collected are sent to suitable recyclers for proper handling and recycling (secondary recyclables may also be distributed through donation and exchange programmes) (see paras. 4.13 and 4.14(b)), in Audit's view, EPD needs to:

- (a) enhance CGS operators' reporting of recyclables collected and dispatched (e.g. reporting the dispatched quantities of secondary recyclables designated as permitted recyclables in the monthly reports); and
- (b) enhance the vetting of the reported quantities by CGS operators.

Scope for improvement in ensuring compliance with reporting requirements

4.17 ***Delay in submission of reports and audited financial statements.*** According to the operating contracts, CGS operators are required to submit to EPD monthly reports, annual summaries of monthly reports and annual audited financial statements. Audit noted that there was delay in submission of these reports and audited financial statements, as follows:

- (a) **Monthly reports.** According to the operating contracts, a CGS operator is required to submit a monthly report (from the contract commencement date) within one week of the end of each reporting month. Audit noted that as of January 2020, for the eight CGSs which had commenced operation (see items 1 to 8 in Table 2 in para. 1.8), each CGS operator was yet to submit three monthly reports (i.e. October to December 2019 reports);
- (b) **Annual summary of monthly reports.** According to the operating contracts, a CGS operator is required to prepare an annual report summarising the monthly reports, which should be submitted within one month of the end of each contract year. Audit noted that as of January 2020, of the seven CGSs with contract having commenced for more than one year, the annual summaries of monthly reports of three CGSs had not been submitted to EPD, with delays ranging from about one month to four months; and
- (c) **Annual audited financial statements.** According to the operating contracts, a CGS operator is required to submit annual audited financial statements within four months after the closing of the respective financial year or period. In addition, the accounts for the participation incentive scheme (Note 29) should be submitted as part of the annual audited financial statements. As of January 2020, for the seven CGSs with contract having commenced for more than one year, Audit noted that:
 - (i) for two CGSs, while it was already 10 or 21 months after the closing of the respective financial year/period, a total of three sets of audited financial statements had not been submitted to EPD;
 - (ii) a total of 18 audited financial statements had been submitted by the seven CGSs. Audit noted that 14 of the 18 audited financial statements were certified more than four months (up to 30 months) after the closing of the respective financial year or period (Note 30); and

Note 29: *According to the operating contracts, CGS operators need to operate a participation incentive scheme to promote participation in recycling and separation of waste at source, and the scheme may include a membership system (similar to commercial loyalty programmes), under which credits can be used for household goods redemption.*

Note 30: *As of 2 April 2020, for audited financial statements submitted, EPD was not able to provide Audit with submission dates by CGS operators for audit analysis.*

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- (iii) 17 of the 18 audited financial statements submitted did not contain accounts for the participation incentive scheme, contrary to the contract requirement.

4.18 In March 2020, EPD informed Audit that:

- (a) CGS operators needed to obtain certain supporting documents (e.g. certification of monthly sales of recyclables) before submission of the regular reports, and some of the supporting information would not be available within the report submission timeline. On the other hand, there was an operational need to have early submission of regular reports (e.g. for EPD's early attention to the operator's performance and payment of operation fee). In view of the practical circumstances, EPD would review the existing arrangements to strike a balance. For instance, consideration would be given to amend the existing contract provisions to allow the submission of supplementary information at a later date; and
- (b) given that the participation incentive scheme was no longer funded by contract payment, EPD would review the appropriateness to include relevant accounts as part of the audited financial statements.

4.19 In Audit's view, EPD needs to expedite actions in reviewing the existing reporting requirements for CGS operators, including the submission time of regular reports and inclusion of accounts for the participation incentive scheme as part of the audited financial statements. EPD also needs to remind CGS operators to comply with the contract requirements for timely submission of audited financial statements.

4.20 *Scope for improving the provision of information by CGS operators.* Audit noted that there was scope for improvement in provision of information by CGS operators, as follows:

- (a) *Need to provide adequate information on compliance with reporting requirements for educational and collection services.* The operating contracts set out the services and performance indicators that CGS operators are required to deliver in the contract period. CGS operators are required to submit monthly reports for summary of compliance with performance requirements for educational and collection services. For the seven CGSs

which commenced operation between 2015 and 2018, Audit examined their monthly reports from January to June 2019 and noted the following:

- (i) ***Targeted households for featured educational events not reported.*** According to the operating contracts, the monthly reports submitted by CGS operators should include the estimated number of households targeted by each featured educational event. However, Audit examination of the monthly reports for the seven CGSs revealed that such information was not reported in the monthly reports. CGS operators only indicated the actual number of participants (instead of households) in the monthly reports. In March 2020, EPD informed Audit that the current practice of reporting the actual number of participants in featured educational events should be more practical and relevant for evaluating the effectiveness of a particular event. In Audit's view, EPD needs to consider revising the contract requirement accordingly; and
 - (ii) ***Scope for improving reporting of information on housing collections.*** CGS operators need to operate collection vehicles for the receipt of recyclables from different collection points. According to the operating contracts for the seven CGSs, a CGS operator needs to maintain not less than 40 housing collections per week. Audit noted that information about the number of trips of collection vehicles to different collection points (including housing estates, public places and other facility) had been included in the monthly reports for the seven CGSs. However, there was no indication as to whether the requirement of 40 housing collections per week was met. In Audit's view, EPD needs to require CGS operators to provide such information in their monthly reports; and
- (b) ***Scope for exploring the use of information technology.*** Audit noted that CGS operators submitted the monthly reports to EPD using manual records and individual spreadsheets. In Audit's view, there is scope for EPD to explore the use of information technology to facilitate CGS operators' submission of reports and EPD's monitoring actions.

Need to share experience for operation of CGSs

4.21 CGSs aim to enhance environmental education and help collect different types of recyclables with a view to promoting green living at the community level. According to EPD, it will evaluate the effectiveness of individual CGSs based on their respective operational statistics, and will take into account views from various stakeholders and make suitable adjustment to the work of the CGSs on environmental education and recycling support as and when necessary.

4.22 According to the operating contracts, each CGS operator is required to:

- (a) engage with stakeholders on a regular basis to keep them informed regarding the CGS, including its objectives, services, achievements and programmes; and
- (b) hold quarterly meetings to share experience with other CGS operators, which will be chaired by EPD.

4.23 In March 2020, EPD informed Audit that, regarding the engagement of stakeholders (see para. 4.22(a)), CGS operators had regularly reported in their monthly reports the engagement of any new stakeholders (i.e. new institutions or housing estates that joined the collection of recyclables).

4.24 As of December 2019, seven CGSs had already been in operation for over one to four years. Audit noted that EPD had not promulgated any good practice guide to CGS operators. In Audit's view, EPD needs to consider promulgating good practices identified over the years for sharing among CGS operators with a view to improving the services of CGSs. Audit also noted that there was no documentation for experience sharing meetings chaired by EPD and held with CGS operators (see para. 4.22(b)). Audit considers that EPD needs to maintain proper documentation on the experience sharing meetings held with CGS operators.

Audit recommendations

4.25 Audit has *recommended* that the Director of Environmental Protection should:

- (a) enhance CGS operators' reporting of recyclables collected and dispatched (e.g. reporting the dispatched quantities of secondary recyclables designated as permitted recyclables in the monthly reports);**
- (b) enhance the vetting by EPD staff of the quantities of permitted and secondary recyclables reported by CGS operators;**
- (c) expedite actions in reviewing the existing reporting requirements for CGS operators, including the submission time of regular reports and inclusion of accounts for the participation incentive scheme as part of the audited financial statements;**
- (d) remind CGS operators to comply with the contract requirements for timely submission of audited financial statements;**
- (e) consider revising the contract requirement for reporting information about targeted households for featured educational events;**
- (f) require CGS operators to provide information on meeting the contract requirement for housing collections in their monthly reports;**
- (g) explore the use of information technology to facilitate CGS operators' submission of reports and EPD's monitoring actions;**
- (h) consider promulgating good practices identified over the years for sharing among CGS operators with a view to improving the services of CGSs; and**
- (i) maintain proper documentation on the experience sharing meetings held with CGS operators.**

Response from the Government

4.26 The Director of Environmental Protection generally agrees with the audit recommendations. She has said that EPD will:

- (a) discuss with CGS operators the pros and cons of introducing a new requirement for recording of reception and distribution of secondary recyclables, having regard to the primary objective of the green living promotion activities to allow hassle free exchange of reusable articles. For subsequent handling of unused secondary recyclables as permitted recyclables (instead of disposing of them) in accordance with relevant educational event proposals endorsed by EPD, EPD will review the contract requirements on reporting of such type of permitted recyclables to see whether changes are needed. In addition, subject to EPD's discussion with CGS operators, EPD will review whether it is necessary to enhance the vetting of reported quantities of permitted and secondary recyclables;
- (b) review the current submission time requirements in a pragmatic manner, taking into account any practical constraints faced by CGS operators. EPD will also consider the appropriateness of including the accounts for the participation incentive scheme as part of the audited financial statements given that the related funding is not paid by EPD;
- (c) consider revising the current contract requirement for reporting information about targeted households for featured educational events to make it more pragmatic;
- (d) revise the reporting template of monthly reports for CGS operators to provide information on meeting the contract requirement for housing collections;
- (e) discuss with CGS operators to understand their readiness to adopt information technologies in reporting and performance monitoring;
- (f) consolidate and disseminate the good practices of individual CGS operators to improve the services of CGSs; and
- (g) enhance the documentation of outcomes of experience sharing sessions with CGS operators.

Specification of quantities in Bills of Quantities and minimum service requirements

4.27 The payment to CGS operators is based on the actual quantity of services provided and the prices of different service items as priced by the operators in BQ according to the operating contracts. In general:

- (a) BQ are a list of items giving brief identifying descriptions and estimated quantities of the work to be performed;
- (b) the main functions of BQ are to:
 - (i) allow a comparison of tender prices; and
 - (ii) provide a means of valuing the work;
- (c) for each BQ item, an estimated quantity of work to be performed is included in BQ. During the tendering of the contract, tenderers are required to indicate in BQ:
 - (i) rate for each BQ item;
 - (ii) the amount of each BQ item (i.e. estimated quantity \times BQ rate); and
 - (iii) the sum of amounts for the BQ items; and
- (d) after the award of the contract, BQ form part of the contract.

Need to continue to keep under review quantities in BQ and minimum service requirements

4.28 Audit examined the operating contracts for nine CGSs and noted that the quantities stated in BQ for both educational and recyclables collection services exceeded the minimum service requirements. As shown in Table 16, for the three-year contract period, the quantities stated in BQ for recyclables collection

Other management issues

services exceeded the minimum tonnage requirements by 20% to 53% while that of the environmental educational services exceeded the minimum quantity requirements by 20% to 120%.

Table 16

Comparison of quantities in BQ and minimum service requirements

CGS	Contract period	Minimum service requirement (a)	BQ quantity (b)	Difference (c) = [(b) – (a)] ÷ (a) × 100%
(a) Recyclables collection services (quantity in tonnes)				
1. Sha Tin	2014 to 2017	600	915	53 %
	2017 to 2020	1,310	1,600	22 %
2. Eastern	2015 to 2018	600	915	53 %
	2018 to 2021	1,160	1,400	21 %
3. Kwun Tong	2016 to 2019	600	915	53 %
4. Yuen Long	2016 to 2019			
5. Sham Shui Po	2017 to 2020			
6. Tuen Mun	2018 to 2021	900	1,080	20 %
7. Kwai Tsing	2018 to 2021			
8. Tai Po	2019 to 2022	555	670	21 %
9. Islands	2019 to 2022	345	420	22 %
(b) Environmental educational services (quantity in number)				
1. Sha Tin	2014 to 2017	239	525	120 %
	2017 to 2020	468	570	22 %
2. Eastern	2015 to 2018	239	525	120 %
	2018 to 2021	468	570	22 %
3. Kwun Tong	2016 to 2019	239	525	120 %
4. Yuen Long	2016 to 2019			
5. Sham Shui Po	2017 to 2020			
6. Tuen Mun	2018 to 2021	420	505	20 %
7. Kwai Tsing	2018 to 2021			
8. Tai Po	2019 to 2022			
9. Islands	2019 to 2022			

Source: EPD records

4.29 In March 2020, EPD informed Audit that:

- (a) the higher degree of difference appeared only in the first contracts of the first five CGSs (i.e. items 1 to 5 under categories (a) and (b) in Table 16 in para. 4.28), and this was purposely built in to address the uncertainties in service requirements, arising from local concerns on the level of activities of the first five CGSs when there was no readily available information to demonstrate the operational performance of CGSs at that point of time; and
- (b) with the availability of operation track records of the first five CGSs, local communities became more receptive to CGSs and similar local concerns were not encountered and thus the degree of difference had generally been reduced to a common level of about 20%.

4.30 Given that BQ quantities indicate the estimated quantities of services to be provided and the amount for such services is included in tender price, Audit considers that EPD needs to continue to keep under review the specification of the quantities in BQ and the minimum service requirements for CGS services.

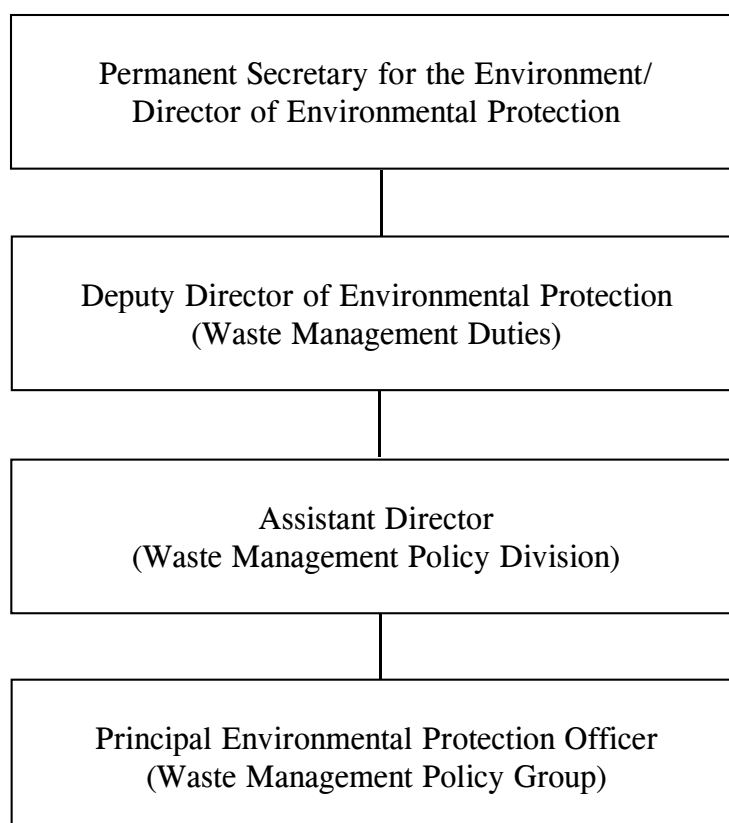
Audit recommendation

4.31 **Audit has *recommended* that the Director of Environmental Protection should continue to keep under review the specification of the quantities in BQ and the minimum service requirements for CGS services.**

Response from the Government

4.32 The Director of Environmental Protection agrees with the audit recommendation.

**Environmental Protection Department:
Organisation chart (extract)
(31 October 2019)**



Source: EPD records

Appendix B
(para. 3.6 refers)

**Minimum quantity requirements for educational events under
operating contracts for Community Green Stations
(September 2019)**

Type of educational event	Educational events (No.)			
	First contract year	Second contract year	Third contract year	Total
(a) Kwun Tong, Yuen Long and Sham Shui Po CGSs				
(i) Regular educational events	35	90	90	215
(ii) Featured educational events	4	10	10	24
(iii) Special community events	No requirement			
(b) Tuen Mun, Kwai Tsing, Tai Po and Islands CGSs				
(i) Regular educational events (on-site)	50	100	100	250
Regular educational events (outreach)	25	50	50	125
(ii) Featured educational events	6	12	12	30
(iii) Special community events	3	6	6	15
(c) Sha Tin and Eastern CGSs (Note)				
(i) Regular educational events (on-site)	80	100	100	280
Regular educational events (outreach)	40	50	50	140
(ii) Featured educational events	8	12	12	32
(iii) Special community events	4	6	6	16

375

420

Source: EPD records

Note: For Sha Tin and Eastern CGSs, the minimum quantity requirements shown in the Table referred to those under the current operating contracts, and the minimum quantity requirements under their first operating contracts were same as those for Kwun Tong, Yuen Long and Sham Shui Po CGSs.

**Minimum tonnage requirements for collection of recyclables
under operating contracts for Community Green Stations
(September 2019)**

CGS	Minimum tonnage requirement (Tonnes)			
	First contract year	Second contract year	Third contract year	Total
(a) Kwun Tong, Yuen Long and Sham Shui Po	100	250	250	600
(b) Tuen Mun and Kwai Tsing	200	300	400	900
(c) Tai Po	120	185	250	555
(d) Islands	80	115	150	345
(e) Sha Tin (Note)	320	440	550	1,310
(f) Eastern (Note)	320	390	450	1,160

Source: EPD records

Note: For Sha Tin and Eastern CGSs, the minimum tonnage requirements shown in the Table referred to those under the current operating contracts, and the minimum tonnage requirements under their first operating contracts were same as those for Kwun Tong, Yuen Long and Sham Shui Po CGSs.

Acronyms and abbreviations

ArchSD	Architectural Services Department
Audit	Audit Commission
BQ	Bills of Quantities
CGS	Community Green Station
CWRF	Capital Works Reserve Fund
DC	District Council
ENB	Environment Bureau
EPD	Environmental Protection Department
kg	Kilograms
LegCo	Legislative Council
m	Metres
m ²	Square metres
NGO	Non-governmental organisation

PROVISION AND MANAGMENT OF COMMUNITY GREEN STATIONS

Executive Summary

1. In early 2013, the Environment Bureau (ENB) announced a plan to develop five pilot Community Green Stations (CGSs) in different parts of the territory to promote environmental/green education and to enhance the collection network of recyclables. The development of CGSs is under the policy purview of ENB and the Environmental Protection Department (EPD). The 2014 Policy Address announced the development of a CGS in each of the 18 districts. According to ENB, the setting up of 18 CGSs would involve an estimated capital expenditure of about \$400 million, and a non-governmental organisation (NGO) would be appointed by way of tender to operate each CGS which would help green living to take root at the community level.

2. According to EPD, each CGS should preferably have a site area of no less than 1,500 square metres and should as far as practicable be conveniently located so as to facilitate visits by local residents. It should also have space for temporary storage of recyclable materials, designated area for loading/unloading of recyclable materials by collection vehicles, general office space, multi-purpose rooms and other ancillary facilities for outdoor activities for the purpose of environmental education. EPD is the project proponent for CGSs and the Architectural Services Department (ArchSD) acts as the works agent for implementation of CGS projects. As of December 2019, regarding the progress for provision of CGSs in the 18 districts: (a) a total funding of \$286.8 million had been approved for implementing 11 CGS projects and a total expenditure of \$195.5 million had been incurred. The construction works for 9 CGSs were completed between 2015 and 2018 and 2 CGSs were in progress; and (b) the remaining 7 CGSs were at planning or site selection stage.

3. According to EPD, private recyclers mainly collect recyclables of higher commercial value. CGSs will enhance environmental education and help collect different types of recyclables, especially those of low economic value (including electrical appliances, computers, glass bottles, rechargeable batteries, and compacted fluorescent lamps and fluorescent tubes) in the local community, with a view to promoting green living at the community level.

Executive Summary

4. EPD appoints NGOs to operate CGSs by way of open tender. As of December 2019, the operating contracts for the 9 CGSs with construction works completed had been awarded. Of these 9 CGSs, 8 CGSs commenced operation between May 2015 and October 2019 and the remaining CGS would commence operation in the second quarter of 2020. In 2018, the total operating expenditure for CGSs was about \$24 million. EPD monitors the performance of CGS operators. The Audit Commission (Audit) has recently conducted a review to examine the Government's efforts in provision and management of CGSs.

Provision of Community Green Stations

5. *Need to make continued efforts to address challenges faced in developing CGSs.* In 2014, ENB informed the Legislative Council (LegCo) Panel on Environmental Affairs that it estimated that all 18 CGSs would be completed by phases in the following three years (i.e. from 2015 to 2017). However, the estimated timeframe for completing the 18 CGSs was not met. As of February 2020, the construction works of 9 (50%) CGSs were completed and 2 (11%) CGSs in progress, and the remaining 7 (39%) CGSs were at planning or site selection stage. According to EPD: (a) the identification of a suitable site for development of a CGS in each of the 18 districts had met with great practical challenges; and (b) for the districts in which no suitable sites could be secured for development of CGSs, EPD was exploring alternative ways to expedite the delivery of the core services of CGSs. In Audit's view, EPD needs to make continued efforts to address the challenges faced in the development of the remaining CGSs and expedite actions in exploring alternative ways to deliver core CGS services for districts with no CGSs (paras. 2.4, 2.6 and 2.7).

6. *Delay in completing construction works of some CGSs.* As of December 2019, for the 9 CGSs with construction works completed, they were completed about 1.5 to 14 months later than their respective original contract completion dates. According to ArchSD, after consideration of extensions of time granted, there was delay in completion of works for 3 of the 9 CGSs, with delay ranging from 1 month to 5 months (paras. 2.11 and 2.12).

7. *Construction works carried out before approval of related drawings and not in accordance with the approved drawings.* For two CGSs (i.e. Sham Shui Po and Tuen Mun CGSs), according to EPD's requirements, there should be a storage block with a sorting area for installation and operation of a baling machine. EPD's

Executive Summary

area requirements for the baling machine had been incorporated into the contract as a contract requirement. According to the contract, the related drawings should also be approved by ArchSD before commencement of works and the works should be carried out according to the approved drawings. However, for the two CGSs, construction of the structural steel frame of the sorting areas in the storage blocks was completed before ArchSD's approval of the related drawings and not in accordance with the approved drawings. In the event, EPD's area requirements for installation of baling machines were not met and baling machines of a smaller size and capacity were installed at both CGSs (paras. 2.14 to 2.17).

8. *Need to draw lessons from various facility problems encountered after some CGSs had commenced operation.* Audit noted that works were carried out for tackling various facility problems after two CGSs had commenced operation: (a) for Sha Tin CGS, works were needed for tackling water leakage problems at the roofs of buildings and flushing problems in the toilets. In the event, it took more than three years to fully resolve all the problems; and (b) for Eastern CGS, works were needed for tackling stagnant water problems on roofs of buildings. In the event, it took about two years to fully resolve the problems. In Audit's view, ArchSD needs to draw lessons from the facility problems at the two CGSs with a view to improving the implementation of CGS projects (paras. 2.18 to 2.22).

Services provided by Community Green Stations

9. EPD appoints NGOs to operate CGSs by way of open tender, and the operating contracts are generally for a period of three years. According to the operating contracts, CGS operators should provide services including educational services, recyclables collection services and management of the facility. CGS operators provide three types of educational events, namely regular educational events, featured educational events and special community events. In addition, CGS operators generally collect two categories of recyclables, namely permitted recyclables (e.g. glass bottles, household appliances (including electrical and electronic equipment), computers and accessories, rechargeable batteries, and compacted fluorescent lamps and fluorescent tubes) and secondary recyclables (e.g. old clothing and textiles, books and toys) (paras. 3.2, 3.5 and 3.19).

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10. ***Minimum quantity requirements for educational events not met by some CGSs.*** According to the operating contracts, there is a minimum quantity requirement on the number of different types of educational events provided by a CGS operator in each contract year. Audit noted that, for the first contract year under the current operating contracts of two CGSs (i.e. Sha Tin and Tuen Mun CGSs), the number of outreach regular educational events and special community events held fell short of the minimum quantity requirements by 40% to 67%. According to EPD, the operators of both CGSs met unexpected difficulties in fulfilling the new requirements for these two events (which were introduced in November 2017), and it was reviewing the contract requirements for regular educational events. In Audit's view, EPD needs to early complete the review of the minimum quantity requirements for educational events, and share among CGS operators their experience in providing educational services (e.g. difficulties encountered) (paras. 3.6 to 3.8).

11. ***Need to disseminate the methodology in counting the number of regular educational events held by CGSs.*** Under the operating contracts, only those educational events fulfilling the contract requirements will be qualified for payment and counted in meeting the minimum quantity requirement. Audit noted that EPD had agreed with an operator (which operated Sha Tin and Kwun Tong CGSs) for the methodology for counting the number of regular educational events qualified for payment (through an e-mail from EPD to the operator). As the agreed methodology may also be applicable to other CGSs, in Audit's view, EPD needs to disseminate the methodology in counting the number of educational events held by CGSs to its staff and CGS operators, with a view to standardising the practice and facilitating operators' organisation of such events (paras. 3.9, 3.11 and 3.12).

12. ***Minimum tonnage requirements for recyclables collection not met by some CGSs.*** According to the operating contracts, CGS operators are required to provide recyclables collection services no less than the minimum tonnage requirements of recyclables. Audit noted that for the first contract year under the first operating contract of three CGSs (i.e. Sha Tin, Kwai Tsing and Sham Shui Po CGSs), the quantities of recyclables collected fell short of the minimum tonnage requirements by 6% to 39%. According to EPD, the three CGS operators did not meet the minimum tonnage requirements during their initial operation due to specific circumstances, and they substantially exceeded the minimum tonnage requirements in subsequent contract periods. In Audit's view, EPD needs to keep under review the minimum tonnage requirements for collection of recyclables (paras. 3.23 and 3.25).

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13. ***Scope for improving service network of CGSs.*** CGS operators collect recyclables through various channels (e.g. in-station collection at CGS and housing collection points). For the service network of the seven CGSs which commenced operation between 2015 and 2018, Audit noted that the annual summaries of monthly reports submitted by the seven CGS operators had included the coverage rate of housing collection points (ranging from 65% to 90% of the population in residential area in their districts), but had not included the calculation of the coverage rate. Neither had EPD documented its verification of the calculation. In Audit's view, EPD needs to require CGS operators to include the calculation of the coverage rate of housing collection points in the annual summaries of monthly reports for EPD's verification (paras. 3.21, 3.27 and 3.28).

14. ***Storage specification for recyclables not met by CGSs.*** According to the operating contracts, regarding storage of recyclables at CGSs, CGS operators should not store recyclables at the stations for longer than 7 days without prior consent from EPD. Audit noted that for the seven CGSs which commenced operation between 2015 and 2018, they had not met the 7-day maximum storage specification for the recyclables collected from October 2018 to June 2019. According to EPD: (a) the 7-day maximum storage specification was introduced at the very beginning of the CGS project initiative to address local community's concern that "dirty waste" might be stored at CGSs; (b) with the promotion of "clean recycling" at CGSs in these years, recyclables received and stored at CGSs were generally in good hygiene condition; and (c) EPD had given consent during regular site inspections for CGS operators to store recyclables at their storage area for longer than 7 days. In Audit's view, EPD needs to review the 7-day maximum storage specification for storage of recyclables, having regard to the latest operating conditions of CGSs and hygiene conditions of recyclables stored therein (paras. 3.29 to 3.32).

15. ***Scope for improving the counting methodology for visitors to CGSs.*** CGS operators report the number of visitors to CGSs in the monthly reports submitted to EPD. According to EPD, some CGS operators counted the number of visitors manually while other CGS operators counted the number by installing electronic counters at the boundary of CGSs. Audit considers that EPD needs to review the effectiveness of CGS operators' methodologies for counting the number of visitors with a view to enhancing the counting methodologies (para. 3.36).

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16. ***Number of visitors to some CGSs less than expected.*** In March 2016, EPD informed the Finance Committee of LegCo that the expected number of daily visitors received by each CGS could achieve 100 on average. Audit noted that of the five CGSs which commenced operation between 2015 and 2017: (a) the number of visitors received by 4 (80%) CGSs fell short of the expected number in all years with a full-year operation; and (b) the numbers of visitors to 3 CGSs decreased by 6%, 17% and 26% respectively from 2017 to 2018. According to EPD, new outreach activities had been introduced since November 2017 and it considered that the level of services provided by individual CGSs should be measured by both the number of visitors to CGSs and the number of persons served by CGSs' outreach activities. However, Audit noted that EPD had not set the expected number of persons served by the outreach activities (paras. 3.37 to 3.39).

Other management issues

17. ***Need to document the analysis of inspection results.*** To monitor the performance and operation of CGSs, EPD staff periodically conduct routine inspections of recyclables collection services, educational services and facilities of CGS. According to EPD guidelines, the inspectors should record the inspection results on the specified standard inspection forms. Audit examined the routine inspection records from January to June 2019 for the six CGSs (which commenced operation between 2015 and September 2018) and noted that, of the 298 inspections recorded on inspection forms, a total of 235 observations were found in 146 inspections and some observations were frequently found during routine inspections. According to EPD, the CGS team had shared latest inspection observations at regular team meetings and followed up on observations of a recurrent nature. However, Audit noted that EPD had not documented the analysis of the observations found (paras. 4.2 to 4.4 and 4.8).

18. ***Scope for enhancing the reporting and vetting of recyclables collected and dispatched.*** CGS operators are required to report the approximate weights of permitted and secondary recyclables collected and dispatched in the monthly reports. Audit examined the monthly reports of the seven CGSs (which commenced operation between 2015 and 2018) since contract commencement dates and up to June 2019 for the cumulative weights of recyclables collected and dispatched and noted that for some types of permitted and secondary recyclables, there were significant differences between the cumulative weights of recyclables collected and dispatched. According to EPD, the reasons for the significant differences included: (a) the dispatched

Executive Summary

quantities of permitted recyclables also included those unused secondary recyclables and materials collected which could not be re-distributed or donated within a reasonable time period. The operating contracts allowed EPD to designate other recyclables as permitted recyclables and EPD had given consent from time to time for CGS operators to turn some of the secondary recyclables collected into permitted recyclables; (b) free distribution of significant quantities of secondary recyclables collected through flea markets set up by some CGS operators were not included in the dispatched quantities in the monthly reports; and (c) there was a surge of the quantities of certain types of permitted and secondary recyclables stored at CGSs as at June 2019. Audit considers that there is scope for enhancing the reporting by CGS operators and vetting by EPD with a view to providing a better way for monitoring the flow of recyclables and whether the recyclables are properly handled (paras. 4.13 to 4.16).

19. *Delay in submission of reports and audited financial statements.* According to the operating contracts, CGS operators are required to submit to EPD monthly reports, annual summaries of monthly reports and annual audited financial statements. Audit noted that for some CGSs, there was delay in submission of these reports and audited financial statements. According to EPD, while there was an operational need to have early submission of regular reports, some of the supporting information would not be available within the report submission timeline. In view of the practical circumstances, EPD would review the existing arrangements to strike a balance. In Audit's view, EPD needs to expedite actions in reviewing the existing reporting requirements for CGS operators and remind CGS operators to comply with the contract requirements for timely submission of audited financial statements (paras. 4.17 to 4.19).

20. *Need to share experience for operation of CGSs.* As of December 2019, seven CGSs had already been in operation for over one to four years. Audit noted that EPD had not promulgated any good practice guide to CGS operators. In Audit's view, EPD needs to consider promulgating good practices identified over the years for sharing among CGS operators with a view to improving the services of CGSs (para. 4.24).

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Audit recommendations

21. Audit recommendations are made in the respective sections of this Audit Report. Only the key ones are highlighted in this Executive Summary. Audit has *recommended* that the Director of Environmental Protection should:

Provision of CGSs

- (a) make continued efforts to address the challenges faced in the development of the remaining CGSs (including identification of suitable sites) and expedite actions in exploring alternative ways to deliver core CGS services for districts with no CGSs (para. 2.7);

Services provided by CGSs

- (b) early complete the review of the minimum quantity requirements for educational events, having regard to CGS operation and the need of local residents for such services (para. 3.15(a));
- (c) share among CGS operators their experience in providing educational services (e.g. difficulties encountered) with a view to facilitating them to provide such services (para. 3.15(b));
- (d) disseminate the methodology in counting the number of educational events held by CGSs to EPD staff and CGS operators, with a view to standardising the practice and facilitating CGS operators' organisation of such events (para. 3.15(c));
- (e) keep under review the minimum tonnage requirements for collection of recyclables, having regard to the operation of and difficulties encountered by CGS operators (para. 3.33(a));
- (f) require CGS operators to include the calculation of the coverage rate of housing collection points in the annual summaries of monthly reports for EPD's verification (para. 3.33(c));

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- (g) **review the 7-day maximum storage specification for storage of recyclables, having regard to the latest operating conditions of CGSs and hygiene conditions of recyclables stored therein (para. 3.33(e));**
- (h) **review the effectiveness of CGS operators' methodologies for counting the number of visitors with a view to enhancing the counting methodologies (para. 3.44(a));**
- (i) **review the expected number of persons served by both on-site and outreach activities of CGSs with a view to fully reflecting the service level of CGSs and monitor the achievement of the expected number as adopted after the review (para. 3.44(b));**

Other management issues

- (j) **document the analysis of the observations found during inspections with a view to identifying those commonly found for assessing the need for helping CGS operators enhance their operation (para. 4.9(b));**
- (k) **enhance CGS operators' reporting of recyclables collected and dispatched (para. 4.25(a));**
- (l) **enhance the vetting by EPD staff of the quantities of permitted and secondary recyclables reported by CGS operators (para. 4.25(b));**
- (m) **expedite actions in reviewing the existing reporting requirements for CGS operators, including the submission time of regular reports (para. 4.25(c));**
- (n) **remind CGS operators to comply with the contract requirements for timely submission of audited financial statements (para. 4.25(d)); and**
- (o) **consider promulgating good practices identified over the years for sharing among CGS operators with a view to improving the services of CGSs (para. 4.25(h)).**

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22. Regarding provision of CGSs, Audit has also *recommended* that the Director of Architectural Services should:

- (a) monitor the works progress and endeavour to complete the works as soon as practicable in implementing the construction works of CGS projects (para. 2.22(a));
- (b) strengthen actions to ensure that contractors comply with the contract requirements of carrying out construction works after approval of the related drawings and in accordance with the approved drawings (para. 2.22(b)); and
- (c) draw lessons from the problems of water leakage and toilet flushing at Sha Tin CGS and stagnant water at Eastern CGS with a view to improving the implementation of CGS projects (para 2.22(c)).

Response from the Government

23. The Director of Environmental Protection and the Director of Architectural Services generally agree with the audit recommendations.