

By Fax

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11 December 2019

Clerk to Public Accounts Committee
Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong
(Attn: Mr Anthony Chu)
[Fax No.: 2543 9197]

Dear Mr Chu,

Public Accounts Committee**Director of Audit's Report No. 73****Chapter 2: Provision of consultancy, research and development and training services by the Hong Kong Productivity Council**

I refer to your letter of 3 December 2019 and would like to provide the following information as requested by the Committee -

- (a) "Memorandum of Administrative Arrangements on the Administration of the Subvention for the Hong Kong Productivity Council" (MAA) and details of the revisions in 2009

The Government of the Hong Kong Special Administrative Region and the Hong Kong Productivity Council (HKPC) entered into the first MAA in March 2003, and signed a new MAA (at Annex) in June 2009, which has been adopted until now. Compared with the version signed in 2003, the majority of the clauses in the original text have been retained in the current MAA, with revisions made to the following clauses -

- Paragraph 5.2 on the Government’s funding of the operation of the HKPC: as the Clothing Technology Demonstration Centre Company Limited, a subsidiary company of the HKPC, had already ceased operation in 2007, the clause relating to the use of part of the Government’s subvention to fund the recurrent operating cost of the subsidiary company was removed from the original text.

- Paragraph 5.9 on the role of Government’s representatives in the Council of the HKPC: removing the clause in the original text which required public officers to act in the best interests of the HKPC where no conflict of interest arose, and adding the following clause to clarify the role of Government’s representatives in the Council -

“The public officers sitting on the Council of the HKPC primarily represent the Government’s interests in priority over those of the HKPC.”

- Paragraph 6.8 on the Government’s subvention to the HKPC: adding the following clause to the end of the original text -

“The CIT will endeavour to advise the HKPC on the block grant draft estimate at least two months before the date specified by the CIT (paragraph 6.4) for the submission of the HKPC’s Annual Programme and Estimates.”

- Paragraph 11.1 on the conditions of service for staff of the HKPC: removing the requirement in the original text that the terms and conditions of service of the HKPC’s staff might not be superior to those provided by the Government to comparable grades in the civil service, and changing the clause to read as follows -

“The HKPC shall determine its staffing structure and appoint its staff on terms and conditions of service subject to the Council’s endorsement, and the approval pursuant to Section 6(1) of the HKPCO.”

- Paragraph 17: adding a new clause to set out the non-legally binding effect of the MAA.

(b) Government's subvention to the HKPC

Recurrent subvention

According to the MAA, the Government provides recurrent subvention to the HKPC in the form of annual block grant. The level of annual block grant is determined in advance in accordance with the Government's overall financial policy and guidelines prevailing from time to time. Since 2010-11, the annual draft estimate of recurrent subvention was equivalent to the draft estimate of recurrent subvention of the preceding financial year plus the subvention provided to the HKPC for salary adjustment in the course of the preceding financial year.

The Commissioner for Innovation and Technology (CIT) will advise the HKPC in the middle of the financial year the draft estimate of recurrent subvention for the following financial year, so that the HKPC can compile its Annual Programme and Estimates. Upon approval by the Council, the HKPC will submit the Annual Programme and Estimates to the Government for approval. After review by the Secretary for Financial Services and the Treasury, the Secretary for Innovation and Technology, with the authority delegated to him, will grant approval of the Annual Programme and Estimates of the HKPC in accordance with section 16(1) of the Hong Kong Productivity Council Ordinance. The Innovation and Technology Commission (ITC) will then release the annual block grant to the HKPC monthly in equal instalments. During the year, in accordance with the civil service salary adjustment rate of the subject financial year, the Government will release additional subvention to the HKPC for salary adjustment of its staff.

One-off Subvention

Apart from recurrent subvention, the Government may also allocate one-off subvention to the HKPC for specific non-recurrent purposes. The HKPC is required to provide a detailed proposal and a budget to the ITC. Upon completion of the review, the ITC may apply for additional funding for the HKPC in accordance with the established mechanism. In 2017-18 and 2018-19, the ITC disbursed \$14.01 million and \$3.75 million to the HKPC respectively for the setting up of the Inno Space and the financing of its operation for the first two years.

Funding provided to the Automotive Platforms and Application Systems R&D Centre

The Automotive Platforms and Application Systems Research and Development Centre (APAS) is one of the five research and development centres established by the Government in 2006. Since its merger with the HKPC in November 2012, the APAS is now a division of the HKPC. The Government regularly applies for funding from the Legislative Council to support the operating expenditure of the APAS, which is separately funded by the Innovation and Technology Fund. The APAS is required to compile a work plan and a budget every year, and submit it to the CIT for approval after endorsement by the Business Development Committee under the Council of the HKPC. The HKPC has set up a separate account for the APAS, and the funding provided to the HKPC and the APAS must be handled separately and no cross-subsidisation is allowed. The HKPC and the APAS are required to submit to the ITC their respective annual audited accounts.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Rebecca Pun', with a long horizontal stroke above the name.

(Ms Rebecca Pun)

Commissioner for Innovation and Technology

- c.c. Secretary for Innovation and Technology
Secretary for Financial Services and the Treasury
Chairman, Hong Kong Productivity Council
Executive Director, Hong Kong Productivity Council
Director of Audit

**Memorandum of Administrative Arrangements between
the Government of the Hong Kong Special Administrative Region
and the Hong Kong Productivity Council
on the Administration of the Subvention
for the Hong Kong Productivity Council**

1. Preamble

- 1.1 It is the intention of the parties that, save as otherwise provided in this Memorandum of Administrative Arrangements (“MAA”), this MAA replaces the previous Memorandum of Administrative Arrangements entered into between the Government and the Hong Kong Productivity Council (“HKPC”) on 22 March 2003.
- 1.2 This MAA sets out the understanding reached between the Commissioner for Innovation and Technology (“CIT”) and the HKPC in consultation with the Secretary for Financial Services and the Treasury (“SFST”). It provides the framework for the relationship between the Government of Hong Kong Special Administrative Region (“the Government”) and the HKPC and sets out in detail the responsibilities of each party.
- 1.3 The provisions of this MAA are founded on the principle that the HKPC should have autonomy and flexibility in utilising its funds and resources insofar as it is not inconsistent with the provisions of the Hong Kong Productivity Council Ordinance (“HKPCO”), Cap. 1116, Laws of Hong Kong Special Administrative Region.
- 1.4 In the event of any inconsistency between the provisions set out in this MAA and the provisions of the HKPCO, the latter will prevail.
- 1.5 For subject matters not specifically covered in this MAA, the HKPC undertakes to observe the Government’s overall subvention policy and guidelines prevailing from time to time.
- 1.6 Both the CIT and the HKPC may propose amendments to this MAA. Any amendments agreed by both parties in writing following consultation, where relevant, with the SFST, will form part of this MAA.

1.7 This MAA does not preclude the Chief Executive in Council from issuing directions to the HKPC as provided for in the HKPCO.

2. Objectives of the HKPC

2.1 The HKPC promotes productivity excellence through the provision of integrated support across the value chain of Hong Kong firms, in order to achieve a more effective utilisation of resources, to enhance the value added content of products and services, and to increase international competitiveness.

2.2 In achieving these objectives, the HKPC undertakes to be flexible and proactive in response to the changing demands of the economy.

3. Service Focus

3.1 The service focus of the HKPC is to provide integrated support to innovative and growth oriented Hong Kong firms across the value chain, with the sectoral focus on manufacturing, particularly in Hong Kong's foundation industries, and related service activities, and the main geographical focus on Hong Kong and the Pearl River Delta in Mainland China.

4. Functions of the HKPC

4.1 The functions of the HKPC as defined in Section 4 of the HKPCO are:

- (a) to promote the increased productivity of industry in Hong Kong and to encourage the more efficient utilisation of resources therein;
- (b) to consider matters affecting productivity of industry in Hong Kong;
- (c) to advise the Chief Executive concerning the productivity of industry in Hong Kong and measures designed to increase it;

- (d) to consult with, co-ordinate and assist the activities of persons or organisations, either in Hong Kong or elsewhere, engaged in the study, development or dissemination of programmes, methods or techniques designed to increase productivity in industry; and
- (e) to take on productivity related assignments elsewhere than in Hong Kong provided that:
 - (i) the assignment carried out is without prejudice to the performance by the HKPC of the functions referred to in para. 4.1(a) to (d) above; and
 - (ii) the minimum rate charged by the HKPC for the assignment is sufficient to recover all costs incurred in carrying out that work, which costs shall include direct costs (recurrent and capital) and overhead costs.

5. Relationship between the Government and the HKPC

- 5.1 The HKPC will be autonomous in the management and control of its activities and resources as provided for under the HKPCO and this MAA.
- 5.2 The Government will partly fund the operation of the HKPC having due regard to the overall government budgetary position and specific performance indicators of the HKPC as agreed between the CIT and the HKPC (please see para. 7.1 below).

Role of the CIT

- 5.3 The CIT is the designated Controlling Officer of the subvention from the Government granted to the HKPC and will act as the focal point of contact between the Government and the HKPC.
- 5.4 As the Controlling Officer, the CIT will ensure that the HKPC's activities accord with its objectives and relevant public policies and priorities, are properly and effectively planned, delivered and evaluated and its subvention is properly used and disbursed. The CIT will ensure that the HKPC's policy

objectives are appropriate, and that they remain so in the light of changing circumstances. The CIT may advise the HKPC of the need to review these objectives in the light of changes in the economic environment.

- 5.5 Where it appears to the CIT that any activity of the HKPC duplicates/overlaps with or is substantially the same as any activity of any other agency, he/she may ask the HKPC to justify the provision of public funds to support its conduct of that activity.

Role of the HKPC

- 5.6 The HKPC is responsible for the administration of those activities for which it has statutory executive authority. It is also responsible for advising the Government on the productivity issues concerning Hong Kong and the measures designed to increase productivity.
- 5.7 The HKPC is accountable to the Government for the effective and efficient delivery of its objectives within its service focus and undertaking of its functions and proper use and disbursement of the subvention from the Government.
- 5.8 The HKPC shall produce to the CIT within six months after the end of each financial year a report on its activities and audited statements of accounts. It shall also produce any other reports as may be required for perusal of the CIT in relation to the fulfilling of his/her functions as the Controlling Officer. The HKPC shall respond promptly to the CIT on questions relating to its accounting, financial and day-to-day operation matters raised by him/her; take the advice given by the CIT and take such remedial actions as appropriate.

Role of the Government's Representatives in the Council

- 5.9 In accordance with the provisions of the HKPCO, the Chief Executive may appoint public officers to sit on the Council of the HKPC ("the Council"). The public officers enjoy the same status as other Council members. The public officers sitting on the Council of the HKPC primarily represent the Government's interests in priority over those of the HKPC. Their main role is to provide input from the Government's perspective, explain the Government policies and practices, and advise whether any proposals put to

the Council are consistent with the prevailing Government policies and procedures.

- 5.10 On important matters involving deviations from the established Government policies or having significant financial implications for the Government, the HKPC undertakes to consult the CIT who will determine whether the matters require formal approval from the Government.

6. Three-year Forecast and the Annual Programme and Estimates

- 6.1 The HKPC shall submit to the CIT in each financial year, before the submission of its Annual Programme and Estimates referred to in para. 6.2 below, a Three-year Forecast. The Forecast shall set out the strategic targets of the HKPC, the plans to be adopted in achieving those targets, and an assessment of their resource implications. It shall be updated and rolled forward on an annual basis. The HKPC acknowledges that the Forecast is submitted to the CIT for planning purpose only and the Government or the CIT's acceptance of it does not commit the Government to funding other than those funding for the coming year as subsequently approved by the Government in the Annual Programme and Estimates.
- 6.2 In each financial year, the HKPC shall produce the Annual Programme and Estimates, which contains proposed activities categorised in different programme areas and estimates of income and expenditure for the forthcoming financial year for the Government's approval. The HKPC shall, through a standing mechanism, consult the industry, relevant government departments and other concerned government organisations as appropriate when developing activities for inclusion into each programme area.
- 6.3 Subject to CIT's advice on the format and timetable from time to time, the HKPC shall provide in its Annual Programme and Estimates, inter alia, the information set out in the Annex.

Financial Arrangements

- 6.4 The Annual Programme and Estimates, together with a report on the HKPC's achievement with regard to the performance indicators (please see para. 7.3

below), must be submitted to the CIT by a date specified by him/her to tie in with the Government's Draft Annual Estimates Exercise. The HKPC's financial year shall cover the same period as that of the financial year of the Government.

- 6.5 The Annual Programme and Estimates proposed by the HKPC must be fully justified by reference to its objectives and the results that the HKPC is aiming to achieve in the period to which the Annual Programme and Estimates relate. The Annual Programme and Estimates will be included in the Government's draft Annual Estimates for approval by the Finance Committee of the Legislative Council after they have been accepted by the CIT and the SFST.
- 6.6 The principal officers of the HKPC may be invited to attend meetings of the Finance Committee and its sub-committees, the Public Accounts Committee or other committees/panels of the Legislative Council to explain the estimates and the activities of the HKPC.
- 6.7 Recurrent subventions from the Government for the HKPC are provided in the form of a cash-limited annual block grant which the HKPC may deploy for purposes including but not limited to the following:
 - (a) Staff Emolument, i.e. salary, allowances, contribution to retirement schemes, gratuity and personnel-related expenses (including fringe benefits whether in cash or in kind) for the staff of the HKPC; and
 - (b) Operating Expenses, i.e. expenses other than staff emoluments, such as administration expenses, rent, stores and equipment, building maintenance, repair, and re-furnishing etc.
- 6.8 The level of annual block grant is usually determined in advance in accordance with the Government's overall financial policy and guidelines prevailing from time to time. It is cash-limited in nature and adjustments will not normally be approved, except for unforeseen contingencies beyond the control of the HKPC and the financial responsibility for which has been accepted by the Government. The CIT will endeavour to advise the HKPC on the block grant draft estimate at least two months before the date specified by the CIT (paragraph 6.4) for the submission of the HKPC's Annual Programme and Estimates.

6.9 The annual block grant will be released by the Government monthly in advance in equal instalments. The HKPC is also in receipt of an annual capital subvention from the Government for repayment to the Loan Fund for the HKPC Building^{Note 1}. The capital subvention will be released in accordance with the repayment terms and conditions as set out in the loan agreement dated 2 August 1990 and the supplemental agreement dated 25 June 2002 signed between the HKPC and the Government. The Government may also allocate one-off funds to the HKPC for specific non-recurrent purposes. Such non-recurrent subvention must be used for the specific non-recurrent purposes and not to be vired to the annual recurrent subvention.

7. Performance Indicators

7.1 To ensure that the subventions from the Government are used in a cost-effective manner for the provision of services, the HKPC shall propose for the CIT's approval a set of performance indicators for measuring the progress of the HKPC's activities. Such performance indicators shall fall under but not limited to the following dimensions of performance:

- (a) service delivery;
- (b) operating efficiency;
- (c) financial results; and
- (d) effectiveness.

7.2 The performance indicators and targets may be reviewed from time to time and amended as agreed in writing by both the HKPC and the CIT.

^{Note 1} On 18 May 1988, the Finance Committee approved a commitment of \$156,100,000 from the Loan Fund to provide a loan to the HKPC for constructing a special-purpose building to house its facilities. On 31 May 1989, the Finance Committee approved an additional commitment of \$110,870,000 to the HKPC, thus bringing the total approved commitment from the Loan Fund to \$266,970,000. The HKPC had drawn a total of \$249,425,000. A loan agreement and a supplemental loan agreement governing the repayment of loan to the Loan Fund were signed between the HKPC and the Government on 2 August 1990 and 25 June 2002 respectively.

- 7.3 The HKPC shall submit to the CIT, together with the Annual Programme and Estimates, a report on its achievements with regard to the performance indicators. These indicators provide important reference for planning and measuring the progress of the activities undertaken by the HKPC and for facilitating the assessment and approval of the HKPC's Annual Programme and Estimates by the Government.
- 7.4 If the HKPC fails to achieve agreed performance targets, the HKPC shall provide explanations for such failures to the satisfaction of the CIT.

8. Reserves

- 8.1 The HKPC may keep as reserves any savings from its annual block grant arising from any reasons other than a curtailment or cessation of activity stated in its Annual Programme and Estimates, or reduction in remuneration for its staff as a consequence of any civil service's pay adjustment.
- 8.2 At any one point in time the level of reserves within the meaning of para. 8.1 above shall not exceed 15% of the HKPC's annual block grant in the current financial year. Amount in excess of the limit shall be returned to the Government in the following financial year, unless the ceiling of reserves is raised by the CIT in accordance with para. 8.3 below.
- 8.3 The HKPC may propose and the CIT may raise the ceiling of reserves following consultation with the SFST.
- 8.4 The HKPC may freely use its reserves for any activities lawfully permitted under the HKPCO and in furtherance of the HKPC's objectives within its service focus.
- 8.5 The HKPC will absorb all financial consequences arising from the use of its reserves.
- 8.6 The ceiling of reserves set out in para. 8.2 above does not apply to surplus funds arising from the privatisation of HKPC's subsidiary companies or mature services where there are strong private sector presence.

9. Pricing Policy

- 9.1 Within the framework of the HKPCO and this MAA, the Council has autonomy in determining its pricing policy.
- 9.2 The Council shall review its pricing policy where appropriate to take account of changes in the market and any relevant Government policy prevailing at the material time.

10. Organisation and Management

- 10.1 The HKPC shall keep its organisational structure under regular review, and shall develop plans for any changes necessary to ensure that the objectives set out in para. 2 above are pursued as effectively and efficiently as possible. The HKPC shall ensure that its executive has a standing capacity to conduct internal review of management effectiveness, productivity and value for money.
- 10.2 The HKPC shall, on its own initiative or advice of the CIT, conduct management reviews as and when necessary. The purpose of the management review is, broadly, to ascertain that the organisation structure, decision-making and planning process, management and use of resources, delivery of services and the contribution of these services to the developing needs of Hong Kong are appropriate to the changing demands placed upon the HKPC.

11. Conditions of Service for Staff of the HKPC

- 11.1 The HKPC shall determine its staffing structure and appoint its staff on terms and conditions of service subject to the Council's endorsement, and the approval pursuant to Section 6(1) of the HKPCO.

12. Access to Records and Accounts

- 12.1 The CIT, or any other officers authorised by him/her, shall have access to the records and accounts of the HKPC for the purposes of fulfilling his/her functions as the Controlling Officer. The HKPC shall be obliged to explain to the CIT, or any officers authorised by him/her, any matters relating to the income, expenditure or custody of any money derived from the subventions. The HKPC shall give and procure that the CIT and any officers authorised by him/her shall be given all such information relating to the HKPC and such access to the premises and all books, deeds, records, accounts and other documentation of the HKPC, and the CIT may request and be permitted to take copies of any such books, deeds, records, accounts and other documentation. The HKPC shall ensure that its officers and employees give all assistance as may be requested by the CIT or other authorised officers and give promptly all such information and explanation to any such persons as aforesaid as may be requested by him/her or them.
- 12.2 The Director of Audit may examine the HKPC's accounts and the economy, efficiency and effectiveness with which the HKPC has expended its resources in performing its functions and exercising its powers. The Director of Audit may also require any officer of the HKPC to give such explanation, or to furnish such information, as he/she considers reasonably necessary for the purpose of the examination.
- 12.3 The HKPC shall provide the Director of Audit or any other officers authorised by him/her with unhindered access to the HKPC's accounting records and all such documents as he/she may reasonably require for conducting such an examination.
- 12.4 The Director of Audit may report the findings of his/her examination to the CIT and/or the President of the Legislative Council as he/she considers necessary.

13. Donation

- 13.1 The Government will not provide the HKPC with any funds to meet recurrent commitments arising from the conditions attached to any donations to the

HKPC unless the HKPC has obtained the prior approval of the CIT to accept the donations and the conditions attached to the donations.

- 13.2 The HKPC shall identify the donations and income derived from the donations separately in the accounts of the HKPC.

14. Insurance

- 14.1 The HKPC shall at its own expense take out all necessary insurance, including insurance for its own premises.

15. Regulations and Procedures

- 15.1 The HKPC shall draw up its own rules for matters such as regulations and control of its finances, personnel and procurement procedures, having regard to the prevailing practices of the Government.

16. Anti-corruption Procedures

- 16.1 The Commissioner of the Independent Commission Against Corruption may examine the practices and procedures of the HKPC with a view to advising on any measures necessary to minimise opportunities for corruption.
- 16.2 The HKPC shall ensure its staff conform with the requirements of the Prevention of Bribery Ordinance, Cap. 201, Laws of Hong Kong Special Administrative Region.

17. Non-legally binding effect

- 17.1 Notwithstanding anything provided in this MAA or any other documents, this MAA:
- (a) is not binding in law or equity;

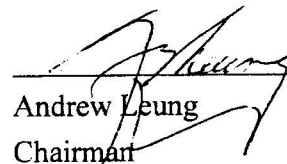
- (b) is not intended to give rise to any rights or obligations or expectations on the part of any party to this MAA or any other person; and
- (c) shall not fetter the powers, discretions and duties of any Government departments or officers under the law to the extent that such departments or officers are to act in a governmental capacity or as a competent authority.

SIGNED for and on behalf of the
Government of the Hong Kong Special
Administrative Region by



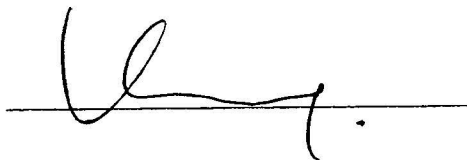
Eddy Chan
Commissioner for
Innovation and Technology

SIGNED for and on behalf of the
Hong Kong Productivity Council by



Andrew Leung
Chairman
Hong Kong Productivity Council

in the presence of



Dated: 22 June 2009

in the presence of



Dated: 22 June 2009

Hong Kong Productivity Council (HKPC)
Information to be contained in the Annual Programmes and Estimates

1. In its Annual Programme and Estimates, the HKPC shall categorise its activities into different programme areas.
2. The HKPC shall provide information in respect of each programme area. The information shall include, but not limited to, the following:
 - (i) the aim of the programme area, i.e. the strategic objective of the programme area and how it fits into the Government priorities and HKPC mission;
 - (ii) a brief description of the activities to be covered by the programme area;
 - (iii) achievements made in the previous year and activities in the coming year which merit special attention;
 - (iv) the total financial provision required for the programme area, with breakdown on the amount of subvention required from the Government and the expected income arising from fees and services charges collected from conducting these activities.
3. The HKPC shall provide information on the activities to be undertaken under each programme area. The information shall include, but not limited to, the following:
 - (i) the expected deliverables such as:
 - (a) the types of activities to be organised such as training classes, consultancy studies, exhibitions etc;
 - (b) the number of projects to be organised under different types of activities; and
 - (c) the targeted participants and the expected number of participants.

- (ii) performance indicators (please see para. 7.1 of the MAA for details) for measuring the efficacy and progress of the activities; and
 - (iii) the estimated funding provision required of each type of activities, with breakdown on the amount of subvention required from the Government and the amount of expected income arising from fees and services charges collected from conducting these activities.
4. The HKPC shall include all its activities in the Annual Programme and Estimates, irrespective of whether such activities are to be covered by subvention from the Government or not.