

**Laying of the Report** Report No. 70 of the Director of Audit on the results of value for money audits was laid in the Legislative Council ("LegCo") on 25 April 2018. The Public Accounts Committee ("the Committee")'s supplemental report (Report No. 70A) on Chapters 1 and 8 of the Director of Audit's Report ("Audit Report") was tabled on 14 November 2018.

2. **The Government Minute** The Government Minute in response to the Committee's Report No. 70A was laid in LegCo on 30 January 2019. A progress report on matters outstanding in the Government Minute was issued on 30 October 2019. The latest position and the Committee's further comments on these matters are set out in paragraphs 3 to 8 below.

**Management of restored landfills**  
*(Chapter 1 of Part 4 of P.A.C. Report No. 70A)*

3. Hon Kenneth LEUNG declared that he was a member of the Craigenower Cricket Club.

4. The Committee was informed that:

Aftercare of restored landfills

- the design and installation works of the recommended advanced equipment (i.e. data logging systems) at Tsueng Kwan O Landfills and Gin Drinkers Bay Landfill were scheduled for completion in the first quarter of 2020;
- the Environmental Protection Department ("EPD") had assessed the appropriate locations for installation of the automatic sampling devices at restored landfills, and the automatic sampling devices were already in operation;
- EPD had stepped up the frequency of irregular inspections and conducted surprise checks during weekends, and ensured that the contractors would keep proper site records/daily log sheets. EPD had also arranged site staff to check the contractors' site records regularly to ensure the records were clearly and properly maintained;

- EPD had changed the sampling point at Pillar Point Valley Landfill ("PPVL") to ensure that the treated leachate discharge would comply with both licence and contract requirements and facilitate the effective monitoring of the performance of the leachate treatment plant ("LTP") at PPVL by EPD;
- the contractor of PPVL had completed the installation of advanced real-time monitoring equipment at PPVL's LTP to monitor LTP round-the-clock on a real-time basis to facilitate early detection of any sign of deterioration in plant performance and ensure that swift maintenance action would be taken;
- EPD would review the feasibility of including non-compliance with the relevant statutory environmental requirements under the demerit point system of the design-build-operate contracts for the restoration and management of closed landfills in future;
- the Leisure and Cultural Services Department ("LCSD") would set up a working group comprising the client departments, the works agent (normally the Architectural Services Department ("ArchSD")), consultants and/or contractors, EPD and departments concerned to address complicated site constraints and speed up the development process;
- LCSD would, in consultation with the relevant works agent and technical departments, consider hiring an external consultant for future restored landfill projects. LCSD might also seek preliminary comments from ArchSD and EPD, as an alternative to hiring external consultant, on proposed development options in restored landfills before consulting the District Councils and issuing the Project Definition Statement in future so as to facilitate more effective consultation with the District Councils;
- drawing from the experiences of Wan Po Road Pet Garden project, the Home Affairs Department would consider the experience and expertise of term consultant before assigning projects in future;

#### Development of government recreational facilities at restored landfills

- the Administration aimed to finish the preparatory work of the Kwai Chung Park project and seek funding approval from LegCo in the 2020-2021 legislative year for commencement of work by end 2021;

- independent quantity surveying consultants had been engaged to provide comprehensive cost advice for all consultant-led projects. Sufficient and realistic time had also been allowed for the tender stage of projects;
- EPD would consider conducting a review to address the potential risk of unusual ground settlement at Tseung Kwan O Stage I Landfill to be occupied by a revitalization project for consideration by the project proponent in planning and designing the project;
- LCSD had reminded relevant staff of the need to consider carefully the detailed user requirements and incorporate them into the tender documents to avoid unnecessary variation of works after award of contract. The Home Affairs Department would critically assess the additional works arising after contract award, and advise client departments on whether the proposed additional works were essential and necessary and on how to deliver the works in cost-effective way;
- ArchSD had shared its experience in the construction of the Jordan Valley Park in July and November 2018 to remind staff that when implementing in future a works project at restored landfills with specific construction requirements and restrictions, sufficient time should be allowed for seeking EPD's advice on the design and layout plans before tender invitation, and substantial design changes found after issuance of tenders should be reported to the Central Tender Board with suggested course of actions and justifications provided;

Monitoring of non-governmental bodies' afteruse facilities at restored landfills

- the football training centre at Tseung Kwan O Stage I Landfill and the temporary cricket grounds at Gin Drinkers Bay Landfill commenced operation in 2018. EPD would work with the relevant bureaux and departments to monitor the licensees' compliance with licence conditions;
- EPD would consult the relevant bureaux and departments on the feasibility of incorporating quantifiable/objective criteria when preparing new land licences in the future, and the formulation of guidelines on the circumstances under which licensees would be requested to submit audited financial information for monitoring their operational and financial viability;

- EPD was working closely with the Tung Wah Group of Hospitals and the Christian Family Service Centre selected under Batch 1 of the Restored Landfill Revitalization Funding Scheme ("the Funding Scheme") on the proposed revitalization projects at Tseung Kwan O Stage I Landfill and Ma Yau Tong Central Landfill respectively. For the revitalization project at Tseung Kwan O Stage I Landfill, its Technical Feasibility Statement prepared by the project proponent had been approved by the Development Bureau ("DEVB"). As for the revitalization project at Ma Yau Tong Central Landfill, it would not be pursued as the estimated project cost had exceeded the original cost estimated during the application stage, and the Steering Committee on the Funding Scheme was formally informed of the decision. EPD would draw reference from the operational and implementation experience of Batch 1 of the Funding Scheme in launching Batch 2; and
- EPD had commissioned a preliminary engineering appraisal study on how to overcome the development constraints and implement the afteruse of PPVL. EPD had also formulated guidelines on related party transactions for projects under the Funding scheme, so as to assist EPD officers to handle relevant issues properly.

5. The Committee wishes to be kept informed of further development on the subject.

### **Sha Tin Section of Route 8**

*(Chapter 2 of Part 4 of P.A.C. Report No. 70A)*

6. Hon SHIU Ka-fai declared that he was engaged in the trading business of construction materials but was not involved in the projects under discussion.

7. The Committee was informed that:

#### Administration of Contract A

- the Highways Department ("HyD") reminded its staff and consultants in May and December 2018 to continue to strictly follow the guidelines stipulated in the Structures Design Manual for Highways and Railways that the consultants or contractors appointed by the Administration

should carry out appropriate level of independent checking on the design of different categories of new highway structures and the associated modification of existing highway structures;

- the Project Administration Handbook for Civil Engineering Works ("PAH"), which was applicable to all works projects overseen by works departments, was updated in August 2018 to enhance the procedures for handling tender queries;
- HyD updated the document entitled "HQ/GN/02 Guidelines for Checking Submissions of Consultants" in December 2018 to incorporate principles for checking the responses to tender queries prepared by consultants, and reminded them to provide a clear and accurate response to tender query;
- HyD would also circulate a memo on a yearly basis to regularly remind its staff to strictly follow the requirements stipulated in the Stores and Procurement Regulations on contract negotiation and seek the relevant authority's prior agreement to the strategy or bottom line for the contract negotiation before entering into negotiation with contractors or consultants;
- details of extra-contractual settlement of claims and/or other forms of settlement agreements contained commercially sensitive information, the disclosure of which in the public domain might harm the competitive or financial positions of contractors and could result in the Administration's breach of its obligation to not divulge information as provided in contracts. Such disclosure might also prejudice the Administration's position in defending against similar claims in legal proceedings. The Committee's suggestion of setting up a mechanism to report to LegCo the extra-contractual settlement of claims in public works contracts would potentially give rise to the above concerns. Hence, DEVB considered that the current mechanism of reporting settled contractual claims including extra-contractual ones to the Audit Commission had been working well;

#### Administration of Contract B and Contract C

- in December 2018, HyD updated "HQ/GN/02 Guidelines for Checking Submissions of Consultants" to enhance the checking procedures for contract clauses and drawings, and reminded its staff and consultants to continue to strictly follow the requirements as stipulated in PAH on

Bills of Quantities preparation work. HyD and its consultants had also been adopting Building Information Modelling technology to carry out the checking in accordance with the requirements stipulated in DEVB Technical Circular (Works) No. 7/2017;

- PAH amended in August 2018 had enhanced the guidelines expressly requiring the works departments/consultants to carefully check that the time programmes for interfacing works in all contracts concerned were consistent when preparing tender documents. PAH also required the consultants to seek the responsible works departments' comments on the time programmes prior to incorporation of the relevant information in tender documents;
- HyD reminded its staff and consultants in December 2018 to continue to follow the existing guidelines and technical circulars to conduct site investigations as far as practicable with a view to incorporating comprehensive and adequate information for design and tender purposes;
- PAH had been updated to:
  - (a) require project offices to submit tender documents for contracts estimated to exceed \$500 million in value to the Legal Advisory Division (Works) of DEVB for legal vetting prior to calling for tenders; and
  - (b) specify the need to minimize omitted items as far as practicable in preparation for Bills of Quantities, which should undergo a checking process;
- HyD would consider carrying out more horizontal directional coring in projects involving tunneling works with a view to providing more ground information for the design of the projects;

#### Usage and management of Sha Tin Section

- to address the bottleneck problem at the approach roads to Route 8, the Administration commenced the works to widen Tai Po Road (Sha Tin Section) in July 2018 for anticipated completion in 2023. The investigation study for the strategic highway project of Trunk Road T4 was commenced in June 2018 for anticipated completion

by 2021 with a view to mapping out the detailed scope and ascertaining the technical feasibility;

- the Transport Department ("TD") commenced a study on "Congestion Charging" in July 2019 to examine the hierarchy and levels of tolls of all government tolled tunnels (including Route 8 (Sha Tin Section)) as well as the Tsing Ma Control Area and Tsing Sha Control Area ("TSCA"). The study would also examine the scope for charging different tolls during different time periods;
- TD had proposed 13 improvement items for franchised bus routes passing through the Sha Tin Section under the Bus Route Planning Programme 2018-2019 and 2019-2020, including the introduction of two new special routes and service enhancement of 11 existing routes that passed through the road section concerned. Three of the improvement items were implemented in 2018 and the remaining ones were implemented by phases starting from the third quarter of 2019;
- upon consultation, the operators of red minibuses welcomed the arrangement for red minibuses to operate on some road sections of Tsing Sha Highway, and red minibuses could then make use of Tsing Sha Highway to ply between New Territories East and Kowloon;

Management of management, operation and maintenance contract for Sha Tin Section

- TD, in collaboration with other Government Monitoring Team ("GMT") members, had consolidated a list of "GMT Members Monitoring Responsibility for TSCA" on maintenance issues, which was attached to the TSCA management, operation and maintenance ("MOM") contract in March 2018. TD had incorporated the above monitoring responsibility of GMT members in the new contract commencing in September 2019;
- to facilitate the monitoring of the operator's compliance with the manning level requirement of all staff under its purview, TD had updated the monitoring form for site inspection to enable relevant information to be recorded on the form, and required the operator to submit the necessary information on a monthly basis for checking by TD;

- TD and the Electrical and Mechanical Services Department had made revisions to the new TSCA contract which commenced in September 2019, including, among others, levying administrative charge on the operator for its failure to meet the required manning level for staff and this would also be applied to future MOM contracts;
- as of June 2019, TD had already collected liquidated damages for the operator's shortfall of electrical and mechanical staff up to April 2019 and ArchSD had already checked the attendance records of building maintenance staff submitted by the operator up to April 2019;
- the methodology for calculating liquidated damages for the operator's staff shortfall had been clearly set out in the new TSCA contract which commenced in September 2019. The Administration would also clearly stipulate in future tender documents and MOM contracts that the manning level of "leave relief" staff was for reference only whereas the manning level of on-duty staff was for mandatory compliance by the TSCA operator;
- on the Committee's recommendation to review MOM contracts and other similar contracts which had stipulated the manning level requirements of staff, TD, HyD, the Electrical and Mechanical Services Department and ArchSD had made monitoring efforts to ensure the compliance with such requirements by the contractors under their respective purview; and
- to strengthen the management of TSCA, GMT members met regularly every three months starting from July 2018 to discuss the MOM issues of the control area and held review meetings with the operator on a quarterly basis to discuss the operator's performance.

8. The Committee wishes to be kept informed of further development on the subject.