

A. Introduction

The Audit Commission ("Audit") conducted a review to examine the collection and removal of marine refuse¹ by the Marine Department ("MD"). A related review was conducted in 2004.²

Background

2. From 2010-2019, an average of 15 354 tonnes of marine refuse was collected by the Administration annually and 70% of which was floating refuse collected by MD. The remaining 30% was shoreline refuse collected by other relevant departments³ according to the locations of the refuse.

3. Since July 2005, MD has outsourced all marine refuse cleansing and disposal services. MD's existing contract for marine refuse cleansing and disposal services covering the whole of Hong Kong waters⁴ is for a term of five years from October 2017 to September 2022 at an estimated contract expenditure of about \$447 million. In 2018, MD awarded to the same contractor an additional contract for marine refuse cleansing and disposal services in Tai Po District for a term of two years from October 2018 to September 2020 at a sum of \$9.48 million. MD renewed the Tai Po District contract with this contractor for another two years from October 2020 to September 2022 at a sum of about \$10 million.

4. In 2020-2021, MD's estimated annual recurrent expenditure (excluding MD staff costs) on the work in tackling marine refuse⁵ was about \$102 million, of which

¹ According to the report of a Marine Refuse Study completed by the Environmental Protection Department ("EPD") in 2015, marine refuse refers to any solid waste, discarded or lost material, resulting from human activities, that has entered the marine environment irrespective of the sources. Marine refuse consists of floating refuse and shoreline refuse washed up on the shores.

² Chapter 9 of the Director of Audit's Report ("Audit Report") No. 43 of October 2004 – "Provision of marine scavenging service".

³ Please refer to Chapter 2 of Part 4 of this report on Government's efforts in tackling shoreline refuse.

⁴ The core services of the contract include scavenging of floating refuse, collection of domestic refuse from vessels, disposal of refuse collected and foreshore cleansing.

⁵ MD's work in tackling marine refuse includes: (a) collecting vessel-generated refuse and scavenging floating refuse in specified areas of Hong Kong waters through contractual services; (b) conducting publicity campaigns to keep the harbour clean; and (c) performing daily patrols in waters and conducting enforcement against marine littering.

\$95 million (93%) was related to the outsourcing of marine refuse cleansing and disposal services.

5. The Committee held one public hearing on 3 March 2021 to receive evidence on the findings and observations of the Director of Audit's Report ("Audit Report").

The Committee's Report

6. The Committee's Report sets out the evidence gathered from witnesses. The Report is divided into the following parts:

- Introduction (Part A) (paragraphs 1 to 25);
- Administration of marine refuse cleansing and disposal contracts (Part B) (paragraphs 26 to 43);
- Monitoring of marine refuse cleansing and disposal services (Part C) (paragraphs 44 to 70);
- Other related issues (Part D) (paragraphs 71 to 79); and
- Conclusions and recommendations (Part E) (paragraphs 80 to 82).

Speech by Director of Audit

7. **Mr John CHU Nai-cheung, Director of Audit**, gave a brief account of the Audit Report at the beginning of the Committee's public hearing held on 3 March 2021. The full text of his speech is in *Appendix 4*.

Opening statements by Secretary for the Environment and Director of Marine

8. **Mr WONG Kam-sing, Secretary for the Environment**, and **Ms Carol YUEN Siu-wai, Director of Marine**, made opening statements respectively at the beginning of the Committee's public hearing held on 3 March 2021. The full text of their opening statements is in *Appendices 5* and *6* respectively.

Roles of the relevant government bureau and departments

9. In response to the Committee's enquiry about the respective roles of the Environment Bureau ("ENB"), the Environmental Protection Department ("EPD") and MD in tackling marine refuse, **Mr CHEN Che-kong, Assistant Director (Water Policy), EPD** explained at the public hearing and **Director of Environmental Protection** further advised in her letter dated 25 March 2021 (*Appendix 7*) that ENB played the role as the policy bureau responsible for formulating policies and providing policy steer. EPD was responsible for supporting the implementation of the relevant policies of ENB, and performing tasks assigned by the Inter-departmental Working Group on Marine Environmental Management.⁶ As for the routine marine cleansing work, it was undertaken and monitored by MD.

Recurrent expenditure

10. With reference to Table 2 of paragraph 1.9 of the Audit Report, the Committee sought further information on the annual recurrent expenditure on MD's work in tackling marine refuse from 2011-2012 to 2020-2021, and the current staff establishment and strength of the dedicated team responsible for the related duties.

11. **Director of Marine** advised in her letter dated 4 January 2021 (*Appendix 8*) that:

- the recurrent expenditure (comprising expenditure on the outsourcing of marine refuse cleansing and disposal services and hire of launches) for 2011-2012 was \$35.06 million, and had increased to the estimated \$101.95 million in 2020-2021; and
- the Pollution Control Unit of MD was primarily responsible for monitoring the collection and removal of marine refuse by contractors, and patrolling the sea to monitor its cleanliness. The establishment and strength of the Unit were 23 and 20 respectively as at 31 December 2020.

⁶ In November 2012, the Government set up an Inter-departmental Working Group on Clean Shorelines to coordinate and enhance efforts among the relevant departments in tackling the marine refuse problem. In January 2018, the above Working Group was revamped and renamed as the Inter-departmental Working Group on Marine Environmental Management.

Collection and removal of marine refuse by the Marine Department

12. The Committee expressed concern about the significant increase in the recurrent expenditure on MD's work in tackling marine refuse over the past decade (from \$35.06 million in 2011-2012 to \$101.95 million in 2020-2021) while the quantities of marine refuse collected by MD had remained steady (ranging from 15 248 tonnes in 2013 to 16 198 tonnes in 2016), and asked whether there was a significant policy change in tackling marine refuse in the period that had led to such substantial rise in the expenditure.

13. **Director of Marine** explained at the public hearing and elaborated in her letter dated 25 March 2021 (*Appendix 9*) that:

- compared with the previous contract for the whole of Hong Kong waters, the existing one required the contractor to provide at least 60 vessels, and the number of foreshore cleansing team members had increased from two teams of 24 members to three teams of 36 members in total. The number of priority areas in the contract had also increased from 36 to 43. Coupled with factors such as rising costs in hiring work boats, inflation and wage increase, the total price of the contract for the whole of Hong Kong waters had increased from \$189 million to \$447 million. Besides, MD awarded an additional contract for Tai Po District in October 2018 with a total contract value of \$9.48 million; and
- MD hired two launches for patrolling in 2016-2017, and additional two in 2017-2018 and 2018-2019 respectively (i.e. four patrol launches in total), and had also extended the working hours of some of the launches since June 2020. The increase in the number of vessels and the extension of their operation hours had led to a corresponding rise in MD's expenditure on hire of launches.

14. The Committee enquired about the basis for increasing the number of patrol launches hired from two to four since 2017-2018, and asked why MD's work in tackling marine refuse showed no corresponding progress from 2017 to 2019 in terms of the quantities of marine refused collected as reflected by the three performance indicators in Table 1 of paragraph 1.8 of the Audit Report.

15. **Director of Marine** explained at the public hearing and supplemented in her letter dated 25 March 2021 (*Appendix 9*) that:

Collection and removal of marine refuse by the Marine Department

- in response to the recommendations of a consultancy study on the sources, fates, distribution and movement of marine refuse in Hong Kong waters announced in 2015, MD successfully applied for funding in 2017 for hiring one more vessel to step up patrol in Hong Kong waters targeting marine refuse accumulation and to enhance monitoring of the contractor's performance. In 2018, MD hired an additional launch when tendering for the marine refuse cleansing and disposal services contract for Tai Po District where more hygiene blackspots had been identified; and
- as the quantity of marine refuse varied daily and was affected by factors such as weather, current, geographical location, population density and vessel density, MD did not require the contractor to collect a specified quantity or weight of refuse every day, nor use the quantity or weight of marine refuse collected as an indicator to measure the contractor's performance.

Outsourcing arrangement

16. In view of the increasing recurrent expenditure of MD on the outsourcing of marine refuse cleansing and disposal services, the Committee asked whether the current outsourcing arrangement for marine refuse cleansing and disposal services could be considered cost-effective from the perspective of value for money, and whether MD had regularly reviewed the effectiveness of the outsourcing practice in improving the operational efficiency of the relevant services.

17. **Director of Marine** responded in her letters dated 29 December 2020 and 25 March 2021 (*Appendices 10 and 9* respectively) that:

- according to the last Audit review in 2004, the cost of collecting marine refuse by MD's in-house scavenging vessels was about 16 times that of the contractor's scavenging vessels. MD had agreed that the cost-effectiveness of collecting marine refuse by government vessels was relatively low, and hence had fully outsourced the marine refuse cleansing and disposal services since 2005. MD would conduct a review on the marine refuse cleansing and disposal services, which would include analysis of cost-effectiveness of the services and adoption of additional service performance indicators to better examine the effectiveness of the existing outsourcing arrangements; and

Collection and removal of marine refuse by the Marine Department

- at the monthly contract management committee meetings with the contractor chaired by the Marine Officer/Pollution Control Unit, MD would examine with the contractor the trend of the quantity of marine refuse collected in different areas of Hong Kong waters with a view to identifying blackspots for follow-up actions and areas for improvement.

18. The Committee further asked whether MD would conduct a comprehensive review of the content of the current service contract for the whole of Hong Kong waters before its expiry in September 2022 in order to explore ways to minimize the expenditure. **Director of Marine** advised in her letter dated 25 March 2021 (*Appendix 9*) that before considering the next tendering exercise for the contract for the whole of Hong Kong waters, MD would conduct a review on contract duration, service specifications, number of vessels required and operation of the marine refuse collection points ("MRCPs").⁷

19. Referring to paragraphs 1.12 to 1.14 of the Audit Report regarding the award of the additional contract for Tai Po District to the same contractor of the contract for the whole of Hong Kong waters, the Committee enquired about the justifications for such additional outsourcing arrangement given that the service areas, services provided and resources deployed under the two contracts overlapped with each other.

20. **Director of Marine** explained at the public hearing and supplemented in her letter dated 25 March 2021 (*Appendix 9*) that:

- the Chief Executive initiated in the 2017 Policy Address a series of improvement measures, including cleaning hygiene blackspots in all districts more frequently, and conducting large-scale clean-up operations regularly at coastal areas and typhoon shelters. At the meeting of the Steering Committee on District Administration in September 2017, the Home Affairs Bureau listed out 12 blackspots in the foreshore water areas of Tai Po District, which were under the purview of MD; and

⁷ All floating refuse and domestic refuse collected is transported on vessels to the four MRCPs managed by the contractor. The four MRCPs are located in Cha Kwo Ling, Ap Lei Chau, Kowloon West and Tuen Mun.

Collection and removal of marine refuse by the Marine Department

- MD invited tenders in 2018 for the contract of marine refuse cleansing and disposal services in Tai Po District, with emphasis on cleansing the hygiene blackspots in the foreshore water areas of Tai Po District. Under the contract, the contractor provided additional cleansing services for Tai Po District on top of the services covered under the contract for the whole of Hong Kong waters.

At the request of the Committee, **Director of Marine** provided in her above letter the quantities of marine refuse collected in Tai Po District each year from 2017 to 2020 with the percentages over the total quantities of marine refuse collected in the whole of Hong Kong waters. The statistics showed that the quantity of marine refuse collected in Tai Po District increased by about 45% from 314.5 tonnes in 2017 to 456.8 tonnes in 2020.

21. The Committee asked whether MD had conducted any cost analysis to compare the relative costs of varying the contract for the whole of Hong Kong waters to include the special service requirements for Tai Po District and entering into a separate service contract for Tai Po District, and whether MD would review the need to renew the contract for Tai Po District before the expiry of the current contract in September 2022.

22. **Mr Tony CHAN Cheuk-sang, Assistant Director/Planning and Services, MD** responded at the public hearing and **Director of Marine** further explained in her letter dated 25 March 2021 (*Appendix 9*) that in 2018, MD was of the view that there was a need for additional services to Tai Po District, and the provision of marine refuse cleansing and disposal services in Tai Po District with a two-year term by way of open tendering would allow more flexibility. At that time, varying the existing contract for the whole of Hong Kong waters to cover the improvement measures for Tai Po District was not considered. Before the expiry of the current contract for Tai Po District in September 2022, MD would conduct a review on the existing arrangement together with the marine refuse cleansing and disposal services contract for the whole of Hong Kong waters.

23. The Committee was also concerned whether MD's tendering arrangement for marine refuse cleansing and disposal services might have given advantage to the current contractor, who had been the sole contractor for the relevant services since July 2005, and subsequently had led to over-reliance on a single contractor for the provision of the services.

Collection and removal of marine refuse by the Marine Department

24. **Director of Marine** responded in her letter dated 25 March 2021 (*Appendix 9*) that MD had been inviting tenders for the marine refuse cleansing contracts in accordance with the tendering procedures as stipulated in the Stores and Procurement Regulations. Since the tender submissions received in the tender exercises for the contract for the whole of Hong Kong waters were of value exceeding \$30 million, the tenders were approved by the Central Tender Board. There was no bias towards the existing contractor. Nevertheless, to enhance tender competition, MD would review the existing practice before considering the next tendering exercise by taking into account the recommendations of the Central Tender Board in 2017 as stated in paragraph 2.24 of the Audit Report, with a view to refining the procedure and attracting more tenderers to bid for the marine refuse cleansing contract.

25. At the request of the Committee, **Director of Marine** provided MD's tender evaluation mechanism in her letter dated 4 January 2021 (*Appendix 8*).

B. Administration of marine refuse cleansing and disposal contracts

26. With reference to paragraph 2.3 of the Audit Report, the Committee asked how MD would address the issue of the shared use of the same vehicle by the contractor under the two contracts for the whole of Hong Kong waters and Tai Po District as well as the contractor's failure to maintain attendance records and daily log books on the deployment of vehicles and their work for inspection by MD as required by the two contracts.

27. **Director of Marine** advised at the public hearing and further explained in her letter dated 25 March 2021 (*Appendix 9*) that:

- the current contracts for the whole of Hong Kong waters and Tai Po District had not stipulated that vehicles provided by the contractor could only be used to transport marine refuse collected under a particular contract, and the contractor was also not required to use a specified number of vehicles to transport marine refuse every day. Hence, the provision of the same vehicle for the two contracts by the contractor had not constituted a violation of contract terms. Nevertheless, the contractor had confirmed in writing that the vehicle concerned would not be used for purpose other than transporting marine refuse; and

Collection and removal of marine refuse by the Marine Department

- MD had requested the contractor to comply with the requirement of maintaining attendance records and daily logs from August 2020 onwards and to provide the records for inspection by MD at any time.

28. The Committee further asked how MD could ensure that the contractor could meet the contractual requirement of collecting marine refuse daily from MRCPs to disposal sites given that only one vehicle was provided under the two contracts.

29. **Director of Marine** and **Assistant Director/Planning and Services, MD** responded at the public hearing, and **Director of Marine** supplemented in her letter dated 25 March 2021 (*Appendix 9*) that the refuse collected in Tai Po District only accounted for about 2.9% of the total amount of refuse collected on average over the past few years, which would not have significant implication on the provision of services by the contractor under the contract for the whole of Hong Kong waters. MD had stepped up efforts in monitoring the loading records of refuse collecting vehicles from August 2020 onwards, and had begun conducting surprise checks at MRCPs since January 2021 to monitor the compliance with the relevant requirement by the contractor.

30. Referring to paragraph 2.4 of the Audit Report, the Committee expressed concern about the significant discrepancies between the quantities of municipal solid waste disposed of by the contractor as per EPD's records and the quantities of marine refuse collected as reported in MD's Controlling Officer's Reports ("CORs") arising from the use of different measurement methods by the two departments.⁸ Noting from the public hearing that MD had adopted a new arrangement by using cubic metre as the measurement unit for marine refuse with effect from 1 January 2021, the Committee asked how such new approach could ensure the accuracy of the statistics provided by the contractor on the quantities of marine refuse collected and address the inconsistency in the relevant statistics as reported by the two departments.

⁸ The discrepancies arose as EPD's records were based on the actual weight of the municipal solid waste disposed of by the contractor at landfills and refuse transfer stations while the quantities of marine refuse collected by MD were estimated in terms of volume (number of bags) and converted to tonnes for reporting in MD's CORs.

31. **Director of Marine** explained at the public hearing and elaborated in her letter dated 25 March 2021 (*Appendix 9*) that:

- with the consent from ENB, starting from 1 January 2021, the quantity of refuse collected from the sea and vessels had been measured by volume in cubic metres, which was in line with the practice adopted in the Consolidated Guidance for Port Reception Facility Providers and Users of the International Maritime Organization; and
- MD had instructed the contractor to measure the actual quantity of refuse collected in cubic metres starting from 1 January 2021, instead of following the past practice of "estimating" the weight based on the number of bags of refuse collected. To ensure the accuracy of the statistics provided by the contractor, MD officers had since 1 January 2021 conducted monthly surprise checks on the refuse handling procedures adopted by the contractor at the four MRCPs, including the use of designated containers for carrying marine refuse and the recording of the quantity of marine refuse collected.

32. The Committee also asked about the manpower required and frequency of inspection conducted by MD to verify the statistics provided by the contractor on the quantity of marine refuse collected under the aforesaid new approach, and whether the new measure would incur extra expenditure.

33. **Director of Marine** advised at the public hearing and supplemented in her letter dated 25 March 2021 (*Appendix 9*) that currently there were 10 Marine Inspectors II and four patrol launches mainly responsible for the inspection of sea water cleanliness across the territory and the monitoring of the contractor's performance. MD would increase the surprise checks to 8 to 10 times a month at the four MRCPs to monitor the performance of the contractor in reporting the quantity of refuse collected. The new measure was undertaken by the staff of the existing establishment and thus would not incur extra expenditure.

34. With reference to paragraph 2.6 of the Audit Report, the Committee asked why MD under the past practice did not verify the statistics provided by the contractor on the quantities of marine refuse collected despite the fact that such statistics would be included in its CORs as one of the important performance indicators to evaluate MD's work in tackling marine refuse, and whether MD would

Collection and removal of marine refuse by the Marine Department

consider adopting in its CORs other performance indicators apart from "the quantity of marine refuse collected" to better reflect its work in tackling marine refuse.

35. **Director of Marine** explained in her letter dated 25 March 2021 (*Appendix 9*) that MD stated in its COR of 1989 that "Performance is difficult to quantify because of the disposition, quantity and concentration of refuse". Before considering the next tendering exercise for marine refuse cleansing and disposal services contract, MD would explore other suitable performance indicators to be included in CORs.

36. Noting from paragraph 2.6 of the Audit Report that MD did not assess the contractor's performance based on the quantity of marine refuse collected, the Committee asked whether there were any other quantitative indicators that could help MD evaluate the contractor's performance in an effective manner.

37. **Director of Marine** responded at the public hearing and supplemented in her letter dated 25 March 2021 (*Appendix 9*) that MD currently adopted objective-based specifications in the contract under which the contractor was required to maintain cleanliness condition of Hong Kong waters at "Good" level during service hours. Upon identifying areas with cleanliness condition below "Good" level, the contractor was required to re-establish the cleanliness condition to "Good" level within a specified time limit. In the review of the marine refuse cleansing and disposal services, MD would examine ways to include other quantitative indicators to monitor the performance of the contractor more effectively.

38. On the Committee's enquiry about the progress of recovering from the contractor the overpayment on disposal charges arising from the Tai Po District contract as mentioned in paragraph 2.14(a) of the Audit Report, **Director of Marine** advised at the public hearing and supplemented in her letter dated 25 March 2021 (*Appendix 9*) that in September 2020, MD successfully recovered from the contractor the overpaid disposal charges at refuse transfer stations with a total sum of \$2,234 under the contract for Tai Po District. The tender documents of the Tai Po District contract had clearly stipulated that all costs related to marine refuse disposal were to be borne by the contractor. In preparing future tender documents of the contract for the whole of Hong Kong waters, MD would also include a provision stating that marine refuse disposal costs would be borne by the contractor.

Collection and removal of marine refuse by the Marine Department

39. With reference to paragraph 2.19 of the Audit Report, the Committee asked why MD had not imposed any penalty on the contractor for engaging a sub-contractor in the daily transportation of marine refuse to disposal sites without obtaining MD's prior written approval as required by the two contracts for the whole of Hong Kong waters and Tai Po District.

40. **Director of Marine** responded at the public hearing and further explained in her letters dated 29 December 2020 and 25 March 2021 (*Appendices 10 and 9* respectively) that the sub-contracting arrangement made under the two contracts for the whole of Hong Kong waters and Tai Po District involved the hire of a vehicle for land transportation of marine refuse collected by the contractor. Since the sub-contracting arrangements had neither affected the quality of service provided nor caused any loss or damage to the Government, MD did not issue Performance Default Notice to the contractor. Nevertheless, MD had reminded the contractor to strictly follow the terms and conditions in the contracts in future.

41. In response to the Committee's enquiry about the justifications for granting covering approval of the aforesaid sub-contracting arrangement under the contract for the whole of Hong Kong waters, **Director of Marine** advised at the public hearing and supplemented in her letter dated 25 March 2021 (*Appendix 9*) that the contractor had fulfilled the contract requirements with the use of the hired vehicle from the sub-contractor, and no additional expenses or material effects had been suffered by MD as a result of the use of the hired vehicle for transporting marine refuse. As such, MD approved in July 2020 the contractor's sub-contracting arrangements under the contract for the whole of Hong Kong waters. Nonetheless, MD agreed that the incident was undesirable, and would take actions against any further breaches of contract by the contractor in future.

42. Noting from the provisions in the contract for Tai Po District that the Government's approval of the sub-contracting services would normally only be granted in case of an emergency or under special circumstances, the Committee asked about the factors considered and/or justifications in granting covering approval of the sub-contracting arrangement made under the contract for Tai Po District as mentioned in paragraph 40.

43. **Director of Marine** explained in her letter dated 25 March 2021 (*Appendix 9*) that there were only two months left before the end of the previous

contract for Tai Po District in September 2020 when MD received the contractor's letter seeking approval of the sub-contracting services. Having considered such circumstances, MD granted the relevant approval in August 2020.

C. Monitoring of marine refuse cleansing and disposal services

44. According to paragraph 3.3(c) of the Audit Report, the contractor was required to restore the level of cleanliness of any part of the Hong Kong waters to "Good" level within the timeframe specified for a particular service area. At the request of the Committee, **Director of Marine** provided in her letter dated 25 March 2021 (*Appendix 9*) the respective number of cases meeting and not meeting the specified time limit by the contractor in 2020, and advised that in 2020, there were two cases where the contractor took additional time to re-establish the water cleanliness condition to "Good" level due to special circumstances. She explained that whenever the contractor was unable to complete the cleansing work within the specified time limit under exceptional circumstances, such as taking time to deploy a foreshore cleansing team or requiring additional time to clean up enormous amount of floating refuse, MD patrol officers would discuss with the contractor to come up with a recommendation for tackling the issue.

45. With reference to paragraphs 3.3(d) and 3.3(e) of the Audit Report, the Committee asked how MD could ensure that at least 50% of the contractor's scavenging/collection fleet were in operation during service hours and that the contractor provided foreshore cleansing services every day for nine continuous working hours between 8:00 am and 7:00 pm in accordance with the requirements of the contract for the whole of Hong Kong waters.

46. **Director of Marine** and **Assistant Director/Planning and Services, MD** advised at the public hearing, and **Director of Marine** supplemented in her letter dated 25 March 2021 (*Appendix 9*) that the contractor would submit to MD a daily vessel operation schedule before each working day, and a daily situation report for MD's inspection and recordkeeping after service completion. During the daily patrol, MD would also inspect whether the contractor had provided the vessels as listed in the daily vessel operation schedule for service within the specified timeframe.

47. Referring to Table 6 in paragraph 3.8 of the Audit Report about the numbers of daily cleanliness patrols and helicopter surveillance conducted by MD in 12 patrol

Collection and removal of marine refuse by the Marine Department

areas in 2019, the Committee asked why the required frequency for conducting daily cleanliness patrols of at least once a month could not be met in 3 of the 12 patrol areas, namely Area 4 (Sai Kung), Area 8 (Lantau South) and Area 9 (Lantau West), how the patrol frequency for each of the 12 patrol areas was determined, and why Area 4 (Sai Kung) and Area 9 (Lantau West) were not inspected by either MD's daily cleanliness patrol or helicopter surveillance at least once a month.

48. **Director of Marine and Assistant Director/Planning and Services, MD** explained at the public hearing, and **Director of Marine** supplemented in her letter dated 25 March 2021 (*Appendix 9*) that:

- MD's patrol routes would be altered in accordance with the actual operations and needs, such as the weather conditions and emergency marine incidents, etc. Under such special circumstances, MD had to deploy patrol launches to deal with emergency situations, which might lead to the failure to meet the required frequency for conducting daily cleanliness patrols in some other patrol areas in that particular month; and
- MD had strengthened the monitoring of its daily cleanliness patrols from November 2020 onwards, and would review the frequency of patrols conducted for each patrol area in the middle of each month. For areas which had not been covered by MD's patrols, manpower would be deployed for conducting patrols in the areas concerned at the earliest possible time. Area 9 (Lantau West) had been included in the helicopter surveillance route since October 2020.

At the request of the Committee, **Director of Marine** provided in her above letter the number of daily cleanliness patrols and helicopter surveillance conducted in the 12 patrol areas in 2020.

49. With reference to paragraph 3.9(b) of the Audit Report, the Committee asked why 2 of the 12 patrol areas, namely Area 9 (Lantau West) and Area 10 (Sha Chau and New Territories North), were not covered by any of the six routes of helicopter surveillance.

50. **Assistant Director/Planning and Services, MD** explained at the public hearing and **Director of Marine** supplemented in her letter dated 25 March 2021 (*Appendix 9*) that in designing the routes for helicopter surveillance, the key

Collection and removal of marine refuse by the Marine Department

considerations of MD included locations with past records of frequent accumulation of refuse, districts receiving more complaints, the flight time required for the surveillance route, etc. MD had not included Areas 9 and 10 in its past helicopter surveillance routes having taken into account the above factors. However, after a recent review, MD had included these two areas under helicopter surveillance since October 2020 having considered that the service requests received covered water areas over the entire territory.

51. With reference to paragraph 3.7(d) of the Audit Report, the Committee was concerned whether the current staff establishment of the rank of Marine Inspector II, which was responsible for conducting the daily cleanliness patrols, in the Pollution Control Unit of MD was sufficient for performing the patrol duty at the required frequency.

52. **Director of Marine** explained at the public hearing and supplemented in her letter dated 25 March 2021 (*Appendix 9*) that MD's Pollution Control Unit had a current establishment of 10 Marine Inspectors II and four patrol launches for the inspection of sea water cleanliness across the territory and the monitoring of the contractor's performance in the marine scavenging services. The manpower deployed for patrolling could largely meet the required frequency of at least once a month except when there were marine oil spillage and related incidents.

53. The Committee asked whether MD would explore the use of information technology to facilitate its work in tackling marine refuse, including submission of marine refuse collection records by the contractor, referral of service requests/complaints to the contractor and the monitoring of daily cleanliness patrols conducted by patrol officers of MD.

54. **Assistant Director/Planning and Services, MD** responded at the public hearing and **Director of Marine** supplemented in her letters dated 4 January and 25 March 2021 (*Appendices 8 and 9* respectively) that the contractor reported to MD the duty records of its frontline staff and their replies to the latest position of referrals of service requests/complaints via email and facsimile. MD would explore with the contractor the further use of information technology in order to facilitate the daily management and monitoring of marine refuse cleansing and disposal services. MD would also study the use of applicable information technology to step up the monitoring of frontline patrol officers in conducting daily sea water cleanliness patrols. Furthermore, MD had acquired two drones, which were currently under

Collection and removal of marine refuse by the Marine Department

testing and expected to be deployed to assist in monitoring the sea water cleanliness starting from the second quarter of 2021. MD would review the effectiveness of the drones half a year following the commencement of their operation.

55. In response to the Committee's enquiry about the procedure for handling service requests/complaints relating to marine refuse by MD, **Assistant Director/Planning and Services, MD** advised at the public hearing and **Director of Marine** supplemented in her letter dated 25 March 2021 (*Appendix 9*) that upon receipt of marine refuse reports, MD would instruct the contractor to clean up the water area concerned. The contractor was required to re-establish the cleanliness condition to a "Good" level within 30 to 120 minutes (depending on the location of that particular area) upon receipt of notification from MD. MD would deploy officers where possible to inspect the cleanliness condition of the water area concerned after the contractor had completed the marine refuse cleansing work. In case the sea water cleanliness was still unsatisfactory after the cleansing work, MD officers would instruct the contractor to redeploy resources and manpower to strengthen the cleansing work until the cleanliness condition was up to the standard. MD would then make reply to the relevant service request/complaint.

56. The Committee noted from Figure 3 in paragraph 3.11 of the Audit Report that the number of patrol visits in 3 of the 12 patrol areas, namely Area 4 (Sai Kung), Area 8 (Lantau South) and Area 9 (Lantau West), was relatively small, but the number of service requests received was more than the number of patrol visits for these three areas. The Committee asked whether MD would consider deploying patrol resources to these three areas from other areas where the number of patrol visits largely exceeded the number of service requests/complaints. **Director of Marine** and **Assistant Director/Planning and Services, MD** responded at the public hearing, and **Director of Marine** supplemented in her letter dated 25 March 2021 (*Appendix 9*) that MD would take into account the nature and numbers of service requests/complaints received for a particular patrol area in planning the deployment of resources.

57. The Committee expressed concern about the contractor's underperformance in marine refuse cleansing work at typhoon shelters and promenades as shown in paragraph 3.13 of the Audit Report, and enquired about the efforts made by MD to monitor the contractor's marine refuse cleansing work, in particular at typhoon shelters and promenades, and the measures to be taken by MD to tackle the marine refuse in these areas.

Collection and removal of marine refuse by the Marine Department

58. **Mr Warren LI Kin-pong, General Manager/Services, MD** responded at the public hearing and **Director of Marine** advised in her letters dated 4 January and 25 March 2021 (*Appendices 8 and 9* respectively) that:

- MD monitored the contractor's performance mainly by conducting daily patrols on a surprise basis in water areas including typhoon shelters and promenades, and reviewing the various operational returns and reports submitted by the contractor as well as conducting contract management committee meetings with the contractor each month;
- MD would also inspect the priority areas, including but not limited to Cheung Chau Typhoon Shelter, Sam Ka Tsuen Typhoon Shelter, Tuen Mun Typhoon Shelter and Kwun Tong Typhoon Shelter, on a surprise basis during patrols, so as to ensure the sea water cleanliness was up to the standard;
- MD would place floating booms at Kwun Tong Typhoon Shelter to intercept floating refuse in end March 2021, and would also make use of drones to assist in the monitoring of the sea water cleanliness starting from the second quarter of 2021; and
- MD would, during the review of marine refuse cleansing and disposal services, examine the cleansing arrangements in order to further enhance the cleansing requirements of individual locations in the future.

59. Noting from the public hearing that the contractor encountered operational difficulties in collecting and removing marine refuse at typhoon shelters which were always occupied by vessels, the Committee asked whether MD had taken any measures to assist the contractor in this regard.

60. **General Manager/Services, MD** advised at the public hearing and **Director of Marine** supplemented in her letter dated 25 March 2021 (*Appendix 9*) that the contractor might need a longer time than the timeframe as specified in the contract to re-establish the sea water cleanliness under certain circumstances, such as after typhoons and rainstorms or when floating refuse was accumulated between mooring vessels where it was difficult or impossible to access. MD had already reminded the contractor to keep the department informed of any difficulties in completing the cleansing work within the specified time limit, and to continue to follow up until the cleansing work was completed. MD would instruct the

Collection and removal of marine refuse by the Marine Department

contractor to redeploy vessels and foreshore cleansing team as needed to assist in cleaning up water areas inaccessible by work boats, and would clear the berthing area to facilitate the contractor's entry to perform cleansing work.

61. With reference to paragraph 3.20 of the Audit Report, the Committee enquired about the latest development of the issue relating to the deployment of pleasure vessels by the contractor for marine refuse cleansing work, the total number of Performance Default Notices issued by MD to the contractor arising from the issue, and the enforcement actions taken by MD.

62. **Director of Marine** advised at the public hearing and supplemented in her letter dated 25 March 2021 (*Appendix 9*) that after investigation, MD issued to the contractor two Performance Default Notices under the contract for the whole of Hong Kong waters in 2017 and one Performance Default Notice under the contract for Tai Po District in 2018. The contractor undertook not to use non-compliant vessels in conducting marine refuse cleansing work in the future. MD had also sought the Department of Justice's legal advice on the case, and was advised that there was insufficient evidence to initiate a prosecution against the contractor for such non-compliance.

63. In response to the Committee's enquiry about the consequences of the contractor for non-compliance with the Performance Default Notice issued by MD, **Director of Marine** explained at the public hearing and supplemented in her letter dated 25 March 2021 (*Appendix 9*) that according to Clause 36.3(ii) of the contract for the whole of Hong Kong waters and Clause 36.3(b) of the contract for Tai Po District, in the event that the contractor failed to comply with a Performance Default Notice served upon it pursuant to Clause 36.2 or the breach was such that remedy was not possible, the Government should be entitled to deduct from payments due to the contractor such reasonable sum or sums as the Government considered appropriate to reflect the actual loss to the Government resulting from the breach including administrative charges such sum or sums to be calculated by reference to the rates in the Price Proposal.

64. The Committee enquired about the number of Performance Default Notices served on the contractor in the past five years, and asked whether MD would exercise

Collection and removal of marine refuse by the Marine Department

its right under Clause 38.2⁹ of the two contracts to impose penalties against the contractor pursuant to Clause 38.1, with a view to deterring further non-compliance with the terms of the contracts by the contractor.

65. **Director of Marine** advised at the public hearing and supplemented in her letter dated 25 March 2021 (*Appendix 9*) that in the past five years, three Performance Default Notices had been served on the contractor in respect of the use of non-compliant vessels in conducting marine refuse cleansing work. Since the contractor had made rectifications upon receipt of the notices, MD did not impose further penalties against the contractor for such non-compliances. As regards the unauthorized sub-contracting arrangements as mentioned in paragraph 40, MD had granted covering approvals and would not impose further penalties against the contractor. Nevertheless, MD would take actions and consider imposing penalties against the contractor for its further breaches of contract in future. Besides, MD would examine the relevant penalty provisions in the review on marine refuse cleansing and disposal services so as to enhance the deterrent effect.

66. With reference to paragraph 3.24 of the Audit Report, the Committee enquired about MD's monitoring work on the operations of the four MRCs and its measures to ensure their proper management. **Director of Marine** and **Assistant Director/Planning and Services, MD** advised at the public hearing, and **Director of Marine** supplemented in her letter dated 25 March 2021 (*Appendix 9*) that when patrolling various areas, MD officers would inspect from time to time the conditions of MRCs, including the temporary storage of refuse and the cleanliness of MRCs. From January 2021 onwards, MD had increased the frequency of conducting surprise checks to 8 to 10 times at different MRCs every month on the presence of supervisor, the overall cleanliness condition, gate closure, placing of warning signs in prominent locations, implementation of rat prevention measures and clearance of refuse from temporary storage containers.

67. The Committee further asked whether MD had imposed any penalty on the contractor for its failure to operate MRCs in Cha Kwo Ling and Ap Lei Chau in accordance with the requirements of the contract. **Director of Marine** responded in

⁹ According to the two contracts for marine refuse cleansing and disposal services for the whole of Hong Kong waters and Tai Po District, the Government may exercise the rights contained in Clause 38.2, such as suspension of payment to the contractor and terminating the contracts under any of the circumstances referred to in Clause 38.1, such as where there is any substantial breach of the conditions of the contract or if the contractor sub-contracts its rights or obligations without the prior written consent of the Government Representative.

Collection and removal of marine refuse by the Marine Department

her letter dated 25 March 2021 (*Appendix 9*) that regarding the undesirable hygiene conditions of Cha Kwo Ling MRCP, MD had already required the contractor to improve its cleansing work. As for the absence of staff stationing at Ap Lei Chau MRCP, MD had also required the contractor to arrange an on-site supervisor. MD had not imposed penalties on the contractor as it had taken immediate follow-up actions to rectify the irregularities.

68. With reference to paragraphs 3.26, 3.28(b) and 3.29(b) of the Audit Report, the Committee was advised at the public hearing that the replacement of the lifting appliance in Ap Lei Chau MRCP, which had been out of order since October 2017, could not be made until November 2021. The Committee asked why it had taken MD such a long time to arrange the replacement, how the contractor unloaded marine refuse from vessels to Ap Lei Chau MRCP without the lifting appliance in the meantime, and whether MD had completed the review on the need for lifting appliances in MRCPs in Cha Kwo Ling and Ap Lei Chau.

69. **Director of Marine, Mr Raymond SY, Deputy Director of Marine (2) and Assistant Director/Planning and Services, MD** explained at the public hearing, and **Director of Marine** supplemented in her letter dated 25 March 2021 (*Appendix 9*) that:

- regarding the replacement of the lifting appliance in Ap Lei Chau MRCP, it took time for MD to coordinate with the Electrical and Mechanical Services Department ("EMSD") in making the funding application for the replacement. After the funding was granted, the tender invitation was conducted by EMSD on behalf of MD. However, the procurement procedures, which were originally scheduled for completion in the first half of 2020, were delayed due to the pandemic. MD and EMSD had finalized the arrangements with an aim to replace the lifting appliance in November 2021. Before the replacement, the contractor could arrange refuse collection vessels with lifting appliance for unloading refuse to the temporary storage containers; and
- Cha Kwo Ling MRCP would be relocated in future to cope with the development plan of the district. It was thus not cost-effective if the lifting appliance was to be demolished shortly after the repair. As the contractor had arranged refuse collection vessels with lifting appliance for unloading refuse to the temporary storage containers, MD would not repair the lifting appliance concerned for the time being.

70. In response to the Committee's enquiry as to whether MD would examine the need to retain Cha Kwo Ling and Ap Lei Chau MRCPs given their low utilization, **Director of Marine** advised in her letter dated 25 March 2021 (*Appendix 9*) that:

- Cha Kwo Ling MRCP, which had been in operation since 1995, was mainly used for handling marine refuse collected from the eastern waters of Hong Kong. It had to be retained at this stage as 20% to 30% of marine refuse was transported from Cha Kwo Ling MRCP to disposal sites for disposal every year; and
- Ap Lei Chau MRCP was mainly used for handling marine refuse collected from the southern waters of Hong Kong. About 30% to 40% of marine refuse was transported from Ap Lei Chau MRCP to disposal sites for disposal every year. During typhoon season, this MRCP would also provide support to the cleansing work of the southern waters of Hong Kong and the Aberdeen Typhoon Shelter. The work boats could save the time required for travelling to other MRCPs. As such, this MRCP had to be retained as well.

D. Other related issues

71. With reference to Table 9 in paragraph 4.4 of the Audit Report, the Committee sought explanations for the small number of enforcement cases in relation to marine littering, which ranged from 13 to 17 cases only during the period from 2015 to 2019. The Committee queried whether the statistics suggested inadequate enforcement efforts made by MD, and asked about MD's follow-up actions in respect of the Audit's recommendation of arranging more anti-marine littering operations by officers in plain clothes as stated in paragraph 4.6 of the Audit Report.

72. **Director of Marine** and **Deputy Director of Marine (2)** explained at the public hearing, and **Director of Marine** supplemented in her letter dated 25 March 2021 (*Appendix 9*) that MD would arrange launches to perform daily patrols in Hong Kong waters against marine littering at sea every day and prosecute those who committed marine littering. Prosecution against marine littering was not easy since uniformed enforcement officers of MD on patrol boats could easily be seen. To enhance the enforcement work, MD had arranged about 30% of the anti-marine littering operations to be conducted by officers in plain clothes since 2021. During the operations, enforcement officers in plain clothes would patrol along coastal area and conduct law enforcement actions against marine littering.

Collection and removal of marine refuse by the Marine Department

73. The Committee noted from Table 10 in paragraph 4.7 of the Audit Report that the Marine Refuse Study ("the Study") commissioned by EPD and released in April 2015 revealed that shoreline and recreational activities and ocean/waterway activities represented about 89% of marine refuse in Hong Kong. The Committee asked whether MD and EPD had taken into account the above findings of the Study in planning their enforcement operations and organizing public education and publicity campaigns to curb source activities of marine refuse.

74. **Deputy Director of Marine (2)** advised at the public hearing and **Director of Marine** supplemented in her letter dated 25 March 2021 (*Appendix 9*) that:

- the report of the Study made five recommendations in respect of improving the cleanliness of the shorelines. Under the co-ordination of EPD, MD worked together with green groups in marine refuse cleansing. In 2020, MD participated in a total of nine joint clean-up operations with green groups. MD also conducted joint clean-up operations with the Food and Environmental Hygiene Department and the Agriculture, Fisheries and Conservation Department respectively. In 2020, three enforcement operations against marine littering were conducted; and
- MD would conduct publicity and education activities, such as distributing leaflets to vessels and stakeholders of marine operations, to raise public awareness of keeping the sea clean and reduce marine littering at source. Before Lunar New Year and fish moratorium, MD would also organize typhoon shelter management meetings with the stakeholders to promote the message of keeping the sea clean, and distribute promotional leaflets to remind members of the industry and vessels to handle their domestic waste properly.

75. **Assistant Director (Water Policy), EPD** advised at the public hearing and **Director of Environmental Protection** supplemented in her letter dated 25 March 2021 (*Appendix 7*) that in response to the findings of the Study, EPD had since 2015 coordinated the efforts of other government departments in supporting volunteer groups to organize up to 1 600 shoreline clean-up activities, while 78 "Shorelines Cleanup Day" activities had been organized by EPD with over 2 700 participants. To promote the message of preventing marine pollution caused by refuse, EPD had organized various types of public education and public engagement activities as detailed in her above letter. EPD had also coordinated the implementation of the

Collection and removal of marine refuse by the Marine Department

measures taken by members of the then Inter-departmental Working Group on Clean Shorelines to prevent refuse from entering the sea.

76. At the request of the Committee, **Director of Environmental Protection** provided the statistics on beach cleanliness in her letter dated 25 March 2021 (*Appendix 7*). According to Director of Environmental Protection, the cleanliness of the priority coastal sites had improved significantly since 2015. Currently, under the five-level Shoreline Cleanliness Grading System, 97% of the priority sites had an average cleanliness grading ranging from "Grade 1 – Clean" to "Grade 3 – Fair", and none of them was found with a "Grade 5 – Poor" condition during regular inspections.

77. With reference to paragraph 4.15 of the Audit Report, the Committee enquired about measures of MD and EPD to ensure the accuracy and timely update of the information relating to marine refuse cleansing work provided on the "Clean Shorelines" Website, and MD's mechanism for the update and management of information under its purview on the website.

78. **Assistant Director (Water Policy), EPD** responded at the public hearing and **Director of Marine** advised in her letters dated 4 January and 25 March 2021 (*Appendices 8 and 9 respectively*) that the website was managed by EPD. MD would review and update quarterly the information related to MD on the website as required by EPD. After reviewing the MD-related information on the website, MD provided the latest information to EPD for updating the website on 16 September 2020. Whenever there were material changes to MD-related work, MD would proactively examine if corresponding amendments to the relevant content on the website were needed.

79. Referring to paragraph 4.17(b) of the Audit Report, the Committee enquired about the latest progress of the trial run of float booms to tackle marine refuse and the change in the estimated expenditure on the trial run. **Director of Marine** advised at the public hearing and supplemented in her letters dated 4 January and 25 March 2021 (*Appendices 8 and 9 respectively*) that in June 2020, MD conducted trial run for the two sets of newly procured floating booms in the Government Dockyard, and then conducted further testing in the Western District Public Cargo Working Area in mid-October 2020, which, however, showed that the location was not suitable for the installation of floating booms because of its higher occurrence of wave and swell. MD then placed the floating booms in the Kwun Tong Typhoon

Collection and removal of marine refuse by the Marine Department

Shelter in late November 2020 to test the effectiveness of intercepting marine refuse in different waters. The test result showed that floating booms could effectively intercept floating refuse in calm and sheltered waters. MD would thus install floating booms in the Kwun Tong Typhoon Shelter in end-March 2021. The expenditure of the trial run had been included in the overall budget of the Pollution Control Unit of MD.

E. Conclusions and recommendations

<p>Overall comments</p>

80. The Committee:

- stresses that:

- (a) performance indicators in Controlling Officer's Reports ("CORs") are important factors in formulating strategies and priorities by the Administration. They are also the key factors for Legislative Council Members in considering the Administration's funding applications. As such, performance indicators must be reasonably accurate and be able to truly reflect the performance of the bureau/department concerned; and
- (b) although outsourcing is considered by the Administration as an effective means of service delivery to the community in meeting the rising public demand for better services, it is incumbent upon procuring departments to closely monitor contractors' performance and regularly review the effectiveness of the outsourced services, so as to achieve value for money and to ensure quality service delivery;

Reporting of the quantity of marine refuse collected

- expresses serious concern that the Marine Department ("MD") has failed to ensure that the quantity of marine refuse collected, which is included in its CORs as an important performance indicator of its work in tackling marine refuse, is reasonably accurate and can truly reflect its performance in tackling marine refuse, as evidenced by the following:

Collection and removal of marine refuse by the Marine Department

- (a) the quantity of marine refuse collected under MD's marine refuse cleansing and disposal services contracts¹⁰ was previously estimated in terms of volume (instead of the actual weight) and then converted to tonnes for reporting to MD and subsequent inclusion in MD's CORs;
 - (b) from 2012 to 2019, there were significant discrepancies between the quantity of municipal solid waste disposed of by MD's contractor at landfills and refuse transfer stations as per the Environmental Protection Department ("EPD")'s records and the quantity of marine refuse collected as reported by MD in its CORs. Overall, the former represented only 19.9% (ranging from 16.9% in 2019 to 25% in 2014) of the latter. Moreover, the former might include other municipal solid waste in addition to marine refuse;
 - (c) MD's recurrent expenditure on its work in tackling marine refuse has increased significantly by 150% from \$40.79 million in 2016-2017 to the estimated \$101.95 million in 2020-2021, but the quantity of marine refuse collected by MD has remained steady at around 15 000 to 16 000 tonnes per annum over the past decade; and
 - (d) MD had not verified the accuracy of the statistics provided by the contractor on the quantity of marine refuse collected;
- notes that:
- (a) starting from 1 January 2021, MD has instructed the contractor to measure the actual quantity of marine refuse collected in cubic metre with designated containers instead of following the past practice of "estimating" the weight based on the number of bags of refuse collected.¹¹ In addition, MD has been conducting monthly surprise checks on the refuse handling procedures adopted by the contractor to ensure the accuracy of the relevant statistics provided by the contractor;

¹⁰ MD has outsourced all the marine refuse cleansing and disposal services since July 2005.

¹¹ According to MD, one tonne is equivalent to approximately 55 "large garbage bags" (each with the dimension of approximately 1.0 metre x 0.9 metre, or 220 "bags" (each with the dimension of approximately 0.8 metre x 0.5 metre).

Collection and removal of marine refuse by the Marine Department

- (b) MD has included remarks in its CORs to qualify the measurement unit used in the estimation of marine refuse collected, and periodically cross-check the quantity of marine refuse disposed of and that reported by the contractor; and
 - (c) before considering the next tendering exercise for marine refuse cleansing and disposal services contract for the whole of Hong Kong waters, MD will conduct a review to examine ways to include other quantitative indicators to monitor the performance of the contractor more effectively, and explore other suitable performance indicators to be included in MD's CORs to reflect its performance in tackling marine refuse;
- recommends that:
- (a) as all marine refuse collected by MD's contractor will be disposed of at EPD's disposal facilities, MD should consider using the actual weight of marine refuse disposed of by MD's contractor as per EPD's records for reporting in MD's CORs, with a view to reporting the quantity of marine refuse collected in a more accurate and consistent manner;
 - (b) MD should further review whether it is effective and meaningful to merely rely on the performance indicator on "the quantity of marine refuse collected" for stakeholders to evaluate MD's cost-effectiveness in deploying resources to collect and remove marine refuse; and
 - (c) MD should explore other quantitative performance indicators, such as level of water cleanliness, attendance of marine refuse transportation vehicle, frequency of patrol visits and the average time taken to respond to a complaint/service request referred by MD, which are more effective in assessing the contractor's performance;

Management of outsourcing contracts

- expresses grave concern about MD's ineffectiveness in managing its contracts for marine refuse cleansing and disposal services to achieve the best value for money and ensure compliance with the terms of the contracts by the contractor, as evidenced by the following:

Collection and removal of marine refuse by the Marine Department

- (a) MD has outsourced all the marine refuse cleansing and disposal services since July 2005, and reformed the outsourcing arrangement in October 2011 by bundling the previous two contracts into one contract to cover the whole of Hong Kong waters. In October 2018, MD entered into an additional contract with the same contractor for marine refuse cleansing and disposal services in Tai Po District, under which the service areas, services provided and resources deployed by the contractor overlap with those of the contract for the whole of Hong Kong waters;
- (b) prior to entering into an additional contract for Tai Po District, MD had not conducted cost analysis to compare the relative costs of making variations to the existing contract for the whole of Hong Kong waters to include the special service requirements for Tai Po District and issuing an additional contract for Tai Po District;
- (c) without obtaining MD's prior written approval as required by the contracts, the contractor had sub-contracted the daily transportation of marine refuse under the two contracts for the whole of Hong Kong waters and Tai Po District to the same sub-contractor for the whole contract periods. The contractor had not informed MD of the sub-contracting arrangements until March 2020 for the former contract (i.e. 29 months after the commencement of the sub-contracting arrangement) and August 2020 for the latter contract (i.e. 22 months after the commencement of the sub-contracting arrangement and two months before the end of the contract);
- (d) in dealing with the aforesaid unauthorized sub-contracting arrangements, MD has only reminded the contractor to strictly follow the terms and conditions in the contracts in future, but has not enforced the penalty provisions, such as issuance of Performance Default Notice and deduction of payments, under the contracts against the contractor for non-compliance;
- (e) while the contract for Tai Po District specifies that the Government's approval of the sub-contracting of services will normally only be granted in case of an emergency or under special circumstances, MD has not shown that there are any sound justifications (other than that the services to be provided would

Collection and removal of marine refuse by the Marine Department

not be affected) in granting covering approval of the sub-contracting arrangement; and

- (f) MD has not, in accordance with the relevant contract provisions, taken any follow-up actions in respect of the contractor's failures to perform its marine refuse cleansing work at a number of typhoon shelters and promenades,¹² and to operate the four marine refuse collection points ("MRCPs") as per the requirements stipulated in the contract for the whole of Hong Kong waters;

- notes that:

- (a) before the expiry of the current contract for Tai Po District in September 2022, MD will conduct a review on the contract arrangements for marine refuse cleansing and disposal services for Tai Po District and the whole of Hong Kong waters;
- (b) since the aforesaid sub-contracting arrangements have neither affected the quality of service provided nor caused any loss or damage to the Government, MD would not impose penalties against the contractor. Nevertheless, MD has admitted that it is undesirable to rectify the incidents by giving covering approvals. If the contractor fails to observe the requirement again, MD will take actions and consider imposing penalties for further breaches of contract provisions by the contractor; and
- (c) MD will examine the penalty/termination provisions contained in the contract when reviewing the marine refuse cleansing and disposal services to enhance deterrence against further non-compliance with the contractual requirements by the contractor in the future; and

- urges that:

- (a) before the expiry of the two contracts for the whole of Hong Kong waters and Tai Po District in September 2022, MD should conduct cost analysis to compare the relative costs of adding special service requirements for Tai Po District in the contract for the

¹² Please refer to paragraph 3.13 of the Director of Audit's Report ("Audit Report") for details.

Collection and removal of marine refuse by the Marine Department

whole of Hong Kong waters and issuing an additional contract for Tai Po District;

- (b) in view of the upsurge in the recurrent expenditure on the outsourcing of marine refuse cleansing and disposal services, MD should conduct a comprehensive review on the content of the current contract for the whole of Hong Kong waters before it expires in September 2022, including the contract duration, service specifications such as the size of fleet required and the operation of the four MRCPs, in order to identify ways to reduce the contract price;
- (c) MD should review the effectiveness of its marine refuse cleansing and disposal services on a regular basis with a view to achieving value for money and ensuring quality service delivery;
- (d) MD should step up the monitoring of the performance of the contractor and exercise its right under the two contracts to impose penalties against the contractor as and when appropriate, with a view to deterring further non-compliance with the terms of the contracts;
- (e) MD should require its staff to provide and document justifications properly for cases where imposing penalties for the breaches of conditions by the contractor is not recommended; and
- (f) MD should explore the wider use of information technology to facilitate its work in tackling marine refuse, particularly in respect of the submission of marine refuse collection records by the contractor, referral of service requests/complaints to the contractor for follow-up and the monitoring of daily cleanliness patrols conducted by patrol officers of MD.

Specific comments

81. The Committee:

Administration of marine refuse cleansing and disposal contracts

- expresses grave concern that:
 - (a) the two contracts for marine refuse cleansing and disposal services in the whole of Hong Kong waters and Tai Po District have been awarded to the same contractor, who has been the sole contractor for the provision of such services since July 2005;
 - (b) the number of tenders received for the recent three tender exercises of the contract for the whole of Hong Kong waters had been on a decreasing trend from four in 2011 to two in 2017, and there was a notable increase (135.6%) in the contract sum from \$189.9 million in 2011 to \$447.4 million in 2017;
 - (c) while the tender documents of the current contract for the whole of Hong Kong waters (from October 2017 to September 2022) have not stated that charges incurred in refuse disposal at refuse transfer stations would be borne by the Government, MD continued the arrangement of reimbursing the contractor for such charges (since the South East New Territories Landfill commonly used by the contractor ceased receiving municipal solid waste in January 2016). Such practice might give rise to unfairness and jeopardize the integrity of the tendering exercise;
 - (d) since the commencement of the previous contract for Tai Po District in October 2018, MD has reimbursed the contractor for the disposal charges charged by refuse transfer stations despite the fact that such charges should be borne by the contractor in accordance with the contract provisions;
 - (e) the contractor has failed to maintain attendance records and daily log books on the deployment of vehicles and their work for inspection by MD in accordance with the requirements of the two contracts for the whole of Hong Kong waters and Tai Po District; and

Collection and removal of marine refuse by the Marine Department

- (f) there was no contract requirement stipulating that vehicles stated in tender submissions must be used exclusively for performing services under MD's contracts;
- notes that:
 - (a) MD has been inviting tenders for the contracts of marine refuse cleansing and disposal services in accordance with the tendering procedures as stipulated in the Stores and Procurement Regulations. There was no bias towards the current contractor;
 - (b) MD will review the existing practice before considering the next tendering exercise by taking into account the recommendations of the Central Tender Board in 2017 as stated in paragraph 2.24 of the Director of Audit's Report ("Audit Report"), including allowing a longer tender period, shortening the contract period and allowing a longer gearing up period for successful tenderers, with a view to refining the procedure and attracting more tenderers to bid for the contracts;
 - (c) in September 2020, MD successfully recovered from the contractor of the Tai Po District contract the overpaid disposal charges at refuse transfer stations with a total sum of \$2,234; and
 - (d) Director of Marine has agreed with Audit's recommendations relating to reimbursement of disposal charges to contractor, with details stated in paragraph 2.15 of the Audit Report;
- recommends that:
 - (a) to avoid over-reliance on single contractor for the provision of marine refuse cleansing and disposal services, MD should explore further measures to enhance the competition in the coming tendering exercise for the services; and
 - (b) in the long run, MD should explore various channels to attract new blood, in particular young people, to the marine refuse cleansing industry, in order to have more options in terms of contractors which can provide the relevant services;

Monitoring of marine refuse cleansing and disposal services

- expresses serious concern that:
 - (a) in 2019, in 3 of the 12 patrol areas, namely Area 4 (Sai Kung), Area 8 (Lantau South) and Area 9 (Lantau West), the required frequency for conducting daily cleanliness patrols of at least once in a month in accordance with MD's guidelines could not be met. The numbers of months recording no daily cleanliness patrols ranged from one to six, but the numbers of service requests received was far more than the numbers of patrol visits for these three areas;
 - (b) while there were a large number of service requests received from the public each year (ranging from 568 to 691 requests), MD's guidelines only state that the number of complaints received from the public should match with the frequency of patrol visits but do not mention that the number of service requests received should also be taken into account in selecting patrol areas for conducting daily cleanliness patrols;
 - (c) there were cases at typhoon shelters and promenades which failed to meet the service requirement that a "Good" level of cleanliness shall be re-established within the specified time limit if the level of cleanliness of any part of Hong Kong waters falls below the "Good" level during the service hours. MD has failed to closely monitor the contractor's compliance with such requirement and to provide appropriate support to facilitate the contractor's marine cleansing work at typhoon shelters;
 - (d) MD's contractor has deployed four Class IV vessels (i.e. pleasure vessels), which should be used exclusively for pleasure purposes according to the Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation (Cap. 548D), for marine refuse cleansing work;
 - (e) no daily transportation of marine refuse to disposal sites was arranged for MRCs in Tuen Mun and Ap Lei Chau as required by the contract notwithstanding that there was marine refuse unloaded to the above two MRCs;

Collection and removal of marine refuse by the Marine Department

- (f) MRCPs in both Cha Kwo Ling and Ap Lei Chau were not manned by any contractor's staff. Cha Kwo Ling MRCP was not kept at satisfactory level of hygiene and security with a lifting appliance left unrepaired. The replacement of the lifting appliance in Ap Lei Chau MRCP, which has been out of order since October 2017, cannot be made until November 2021; and
 - (g) same irregularities in the operation of MRCPs, including failures to remove all marine refuse from MRCPs daily and to provide sufficient staff at MRCPs, as well as the low utilization of some MRCPs, were identified in the Audit review conducted in 2004;¹³
- notes that:
- (a) MD has strengthened the monitoring of its daily cleanliness patrols from November 2020 onwards, and will review the frequency of patrols conducted for each patrol area during the middle of each month;
 - (b) MD has reminded the contractor to keep it informed in case of difficulties or inability to complete the cleansing work within the specified time limit, and to continue to follow up until the cleansing work is completed;
 - (c) MD will, during the review of marine refuse cleansing and disposal services, examine the cleansing arrangements for typhoon shelters and promenades in order to further enhance the cleansing requirements of the locations in future;
 - (d) MD has issued Performance Default Notices to the contractor in respect of the use of non-compliant vessels in conducting marine refuse cleansing work. According to the legal advice sought from the Department of Justice, there was insufficient evidence to initiate a prosecution;
 - (e) from January 2021 onwards, MD has strengthened the monitoring of the contractor's management of MRCPs and increased the number of surprise checks to MRCPs to ensure compliance with the relevant operation requirements by the contractor;

¹³ Chapter 9 of the Director of Audit's Report No. 43 of October 2004 – "Provision of marine scavenging service".

Collection and removal of marine refuse by the Marine Department

- (f) Cha Kwo Ling MRCP will be relocated in future, and therefore it is considered not cost-effective to repair the lifting appliance which will be demolished shortly. The contractor has arranged refuse collection vessels with lifting appliance for unloading refuse at Cha Kwo Ling MRCP; and
- (g) Director of Marine has agreed with Audit's recommendations on monitoring of the marine refuse cleansing work as stated in paragraphs 3.19 and 3.28 of the Audit Report;
- urges MD to make more efforts to ensure strict compliance with the contractual requirements on the operation of MRCPs by the contractor, and conduct a review to assess the genuine need to retain MRCPs given their low utilization;

Other related issues

- expresses concern that:
 - (a) even though in 2016 and 2017, the Chairman of the then Inter-departmental Working Group on Clean Shorelines invited MD to consider arranging officers in plain clothes to take enforcement actions in future enforcement operations with a view to increasing the deterrent effect, 270 (96%) of the 280 anti-marine littering operations conducted by MD in 2019 were still conducted during the daily cleanliness patrols by MD's officers in uniform; and
 - (b) while MD informed the Legislative Council in May 2019 that a trial run of floating booms for intercepting floating refuse in waters causing no obstruction to vessel traffic was planned to commence in 2019-2020, MD had not yet commenced the trial run up to August 2020; and
- notes that:
 - (a) MD has arranged about 30% of the anti-marine littering operations to be conducted by officers in plain clothes since 2021;
 - (b) in view of the satisfactory test result, MD has commenced the installation of floating booms at Kwun Tong Typhoon Shelter in end of March 2021 to intercept floating refuse; and

- (c) Director of Marine has agreed with Audit's recommendations on enforcement against marine littering (paragraph 4.9 of the Audit Report), dissemination of information on website (paragraph 4.14 of the Audit Report) and new initiatives in tackling marine refuse (paragraph 4.21 of the Audit Report).

<p style="text-align: center;">Follow-up action</p>
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82. The Committee:

- requests MD to revert to the Committee the outcomes of its review on the marine refuse cleansing and disposal services; and
- wishes to be kept informed of the progress made in implementing the various recommendations of the Committee and Audit.