



中華人民共和國香港特別行政區  
Hong Kong Special Administrative Region of the People's Republic of China



立法會秘書處

LEGISLATIVE COUNCIL SECRETARIAT

來函檔號 YOUR REF : CB(3)/PAC/R40  
本函檔號 OUR REF : AM 12/03/03  
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24 June 2003

Ms Miranda HON  
Clerk  
Public Accounts Committee  
Legislative Council  
Legislative Council Building  
8 Jackson Road  
Central  
Hong Kong

Dear Ms HON

**The Director of Audit's Report on the  
results of value for money audits (Report No. 40)**

**Chapter 5: Subvention for staff emoluments  
of The Legislative Council Commission**

As requested in your letter dated 21 June 2003, I would like to provide the following information for the Public Accounts Committee (PAC) in the same order as the questions are raised in your letter :

Funding for cash allowances

(a) General comments :

The projected salaries and cash allowances shown in the Annex to your letter were drawn up in October 1997 in the course of preparing the 1998-99 budget. The information contained therein was an estimate of the cash allowance required to be paid in 1998-99, which was projected on the basis of the information available at that point in time.

Response to specific points :

- (i) LCC keeps record of each payment of cash allowance, but it does not track the reason for the payment or non-payment for each post.
- (ii) It should be pointed out that non-payment at a certain point in time does not necessarily mean that funding is not required at a future point in time. For example, a staff member may, in compliance with the ‘double benefit rule’, choose not to receive cash allowance (i.e. opt-out) this year because his/her spouse enjoys fringe benefits such as housing and/or education allowances from his/her spouse’s employment. However, he/she may ‘opt-in’ next year on his/her spouse’s cessation, for whatever reason, to enjoy such benefits. In order to keep track of the actual funding requirements for cash allowance, the LegCo Secretariat needs to identify the reasons for all the payments and non-payments of cash allowance, e.g. staff choosing not to receive cash allowance, temporary vacancies, frozen posts, staff on no-pay leave not entitled to cash allowance or posts filled by temporary staff not entitled to cash allowance. To do so involves extra work. Also, to make such extra work meaningful, apart from tracking the reason for the payment or otherwise of cash allowance for each post, it would also be necessary to determine whether appropriate adjustments should be made to the funding requirements.

However, such comparison of the cash allowance provision for each post with the cash allowance expenditure for that post is unwarranted and uncalled for under the one-line vote funding arrangement. If such tracking is required, other “components” of expenditure would also have to be tracked in order to ascertain whether each and every component is over-funded or otherwise.

(b) General comments :

Fundamentally, the one-line vote funding arrangement for LCC does not separate the annual financial provision under subhead 367 (salaries and allowances for staff and general expenses of LCC) into different components. Separate “funding for cash allowance” does not exist.

Response to specific point :

Setting aside the conceptual disagreement as to whether there was any over-provision, the so-called 'over-provision' of \$30.5 million amounted to only 1.6% of the total provision under subhead 367 in the nine years between 1994-95 and 2002-03 (total provision was \$1,863.4 million as per Appendix A to the Audit Report).

As funding for cash allowance is not itemized, there is no question of 'over provision' of funding for cash allowance.

Funding for contract gratuities for new posts and posts not filled by contract staff

(c) General comments :

Applications for additional funds have always been prepared on a full-cost basis, so that the expected financial implications can be considered in perspective. LCC's annual applications for additional funding are considered in the context of Resource Allocation Exercise (RAE) by the Star Chamber.

Response to specific points :

- (i) The use of 15% instead of 100% of a full year's contract gratuity in the 1994 RAE was a special arrangement arrived at after the Star Chamber had been requested to reconsider the funding allocation for LCC for 1995-96. LCC put in nine applications for a total of \$18.24 million in RAE. In accordance with normal practice, these RAE applications were prepared on a full-cost basis (100% contract gratuity). While the Star Chamber agreed to endorse two of the nine applications, it invited the LegCo Secretariat to comment on the proposed arrangement whereby full year provision would not be made for the two items, the reason being that lead time would be required for recruitment. Having regard to the timing of our recruitment exercises, we suggested that full year provision for salaries and cash allowances be reconsidered. As for contract gratuities, we suggested provision at 15% of the yearly entitlement for the first year. The suggestion was accepted by the then Secretary for the Treasury. My letter ref. (8) in LM to D3/01/25(94) of 27 July 1994 to the then Secretary for the Treasury and his letter ref. FIN CR 4/581/94 of 3 August 1994 notifying the LegCo Secretariat of the funding allocation for 1995-96 are attached.
- (ii) In order to reflect the true cost implications of a new service, LCC considers that the estimated total cost should be used in funding applications. (Paragraph 4.19(c) of the Audit Report refers.)

(d) General comments :

According to the funding mechanism for staff contract gratuities agreed with the Administration, the 255% (85% + 85% + 85%) funding for contract gratuities requested in the third year of each three-year contract gratuity funding cycle is applied en bloc to the total projected salaries for permanent posts in the establishment in the second year of the cycle. The year in which the posts are created is not relevant to the calculation of this remaining funding, because the number and grading of posts may vary in the course of time as circumstances dictate and may be completely different from the implementation plans prepared at the funding application stage.

The following fictitious example illustrates why the funding mechanism for contract gratuities should not take into account the amount of funding provided in any particular RAE. Funds for a new service involving two additional Chief Assistant Secretary posts may be endorsed in an RAE. Instead, three Senior Assistant Secretaries (SAS) may be employed at a later stage for various reasons. Afterwards, one of the SASs may resign, and the post may be deleted and replaced by an Assistant Secretary and some temporary staff.

In this example, not only is the total cost of the service different from the initial funding (the level of which may have been set some years ago), the amounts and proportion of the cost components (i.e. salary, cash allowance and gratuity) are also different, because they vary according to the grading of staff employed, the timing of first appointment of the staff and whether the staff concerned are temporary staff who are not entitled to cash allowance and gratuity.

If a post is deleted before the second year of any three-year contract gratuity funding cycle, the remaining 255% funding for contract gratuities in respect of this post cannot be obtained as the post is no longer on the establishment at the beginning of the second year. Similarly, if a post is downgraded, the remaining 255% funding for contract gratuities will be reduced, because of the lower salaries (on which contract gratuities are calculated) of a junior employee.

Reply to specific points :

- (i) Obtaining the 255% cycle-end funding was in accordance with a funding mechanism agreed with the Administration. It was not an application for new resources and was not made in relation to any specific posts supported in a particular RAE. LCC does not therefore accept that it was a request for funds for the same purpose. It should be pointed out that the then Secretary for the Treasury's advice that repeating a request for funds for the same purpose is not allowed in subsequent years means that we are not allowed to ask for funds again to deliver *the same service*.
- (ii) As the funding was made in accordance with an agreed funding mechanism, there was no breach of any funding condition.

(e) General comments :

To recapitulate, the funding for LCC is for new or improved services and not for the creation of earmarked posts. As explained in paragraph (d) above, the costs for implementing a service may vary from time to time. They may take the form of staff costs if staff are employed. They may also take the form of service fees if outside services are employed. This is why when new funds are allocated, they are not separated into components. The conceptual framework of pooling of resources and funding by an averaging method is important and relevant to the case in point.

Response to specific points :

- (i) If it is planned that the new service for which new resources are applied is to be provided by additional staff, the new resources allocated will include a provision to cover an element of contract gratuities. However, it must be pointed out that the decision whether to employ additional staff to implement the new service in question or what staff should be employed to implement the new service would depend on prevailing circumstances as has been explained in paragraph (d) above. Therefore, whether and how much of the new resources allocated would be used to pay contract gratuities would depend on how the new service is to be delivered.
- (ii) Application for resources to pay contract gratuities is made according to the funding mechanism agreed between the Administration and LCC. Under the agreed mechanism, funds applied for are based on the staff establishment of the LegCo Secretariat at the beginning of the second year of the three-year contract gratuity funding cycle and are not **directly related** to the new resources approved in RAEs.

(f) General comments :

Every funding application for new or improved services must be supported by full justifications and with breakdowns of resources required, such as costs for equipment, additional posts etc. Inevitably, in determining the amount of funds to be allocated, the different cost components necessary for the delivery of the new or improved services have to be taken into account by the Star Chamber.

Response to specific points :

- (i) As stated in paragraph (d), the funding request for 85% of contract gratuities per year for the posts created in previous years was in accordance with the funding mechanism agreed with the Administration. Therefore, there is no question of LCC making double requests for funding of contract gratuities.

- (ii) LCC considers it relevant to forward to PAC a copy of the then Secretary for the Treasury's letter dated 23 August 1997 because that was the **final official notification of approval** for the allocation of funds by the Star Chamber for the 1997 RAE. LCC did not forward to PAC the earlier letters dated 13 September 1996 and 8 August 1997 because the letters were only about provisional allocation. Moreover, as stated in my letter of 19 June 2003, the purpose of my forwarding the then Secretary for the Treasury's letter dated 23 August 1997 to PAC was to illustrate that (i) the amount allocated was in respect of four *services* and (ii) under the one-line vote arrangement, LCC is free to deploy resources as it sees fit. The two earlier letters dated 13 September 1996 and 8 August 1997 are irrelevant in this context.

Yours sincerely

A handwritten signature in black ink, consisting of a large, sweeping loop followed by a smaller, more intricate flourish.

(Ricky C C Fung)  
Secretary General

Encls

***\*Note by Clerk, PAC:** The Secretary General of the Legislative Council Secretariat's letter of ref. (8) in LM to D3/01/25(94) of 27 July 1994 to the then Secretary for the Treasury, and the then Secretary for the Treasury's letter of ref. FIN CR 4/581/94 of 3 August 1994 not attached.*