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25 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**

I refer to the letter dated 24 June 2003 from the Secretary General of the Legislative Council Secretariat (LCS) to the Public Accounts Committee (PAC) on the captioned subject. My comments on the views of The Legislative Council Commission (the LCC) are set out in the Appendix.

A Chinese translation of this letter will be forwarded to you shortly.

Yours sincerely,

  
(Patrick K Y LEUNG)  
for Director of Audit

**Audit comments on the letter from  
the Secretary General of the Legislative Council Secretariat  
to the PAC dated 24 June 2003**

**Paragraph (a)**

*LCC's view*

The 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.

*Audit comments*

*It is contrary to prudent financial management if the LCC does not keep track of the reason for the payment or non-payment for each post. The LCC has details on the LCS staff who chose not to receive cash allowance from the LCC. It also keeps details of cash allowance paid to each LCS staff member. These records are sufficient to keep track of the actual subvention requirements for cash allowance, even though the LCC does not track the reason for the payment or non-payment of cash allowance for each post. For the period 1994-95 to 2002-03, the LCC's budget on cash allowance was, in fact, an accurate projection of the actual subvention requirements for cash allowance. The subvention to the LCC for cash allowance for this period exceeded the LCC's budget by \$30.5 million. For each year during the period 1994-95 to 2001-02 (the 2002-03 figures not yet available), the amount of cash allowance actually paid by the LCC had never exceeded the LCC's budget (see Note 3 and Table 1 in para. 3.9 of the Audit Report).*

*LCC's view*

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 (OLV) arrangement.

*Audit comments*

*Audit considers that it is necessary to compare the LCC's subvention requirements for cash allowance as a whole with the total subvention to the LCC for cash allowance. Regarding the cash allowance for each post, the LCS already has the details on cash allowance payments and the entitlement to such payments. Audit considers that ascertaining the actual subvention requirements is an essential control which should be incorporated into any funding scheme, including the OLV arrangement (see para. 3.17(a) of the Audit Report).*

## Paragraph (b)

### *LCC's view*

The OLV arrangement does not separate the annual provision under subhead 367 into different components. Separate “funding for cash allowance” does not exist. The so-called “over-provision” of \$30.5 million amounted to only 1.6% of the total provision under subhead 367 for the period 1994-95 to 2002-03.

### *Audit comments*

*Under normal circumstances, the LCC may not need to segregate and earmark money for different expenditure components. However, when there are significant changes in circumstances, the subvention requirements must be re-assessed (see para. 4.20(a) in the Audit Report). At these times, thorough vetting by the Financial Services and the Treasury Bureau (FSTB) is necessary on the expenditure components to ensure the adequacy and reasonableness of funding. Without this basic funding control, the OLV arrangement would be deficient and could get out of control (see para. 3.14(a) in the Audit Report). On the percentage of over-provision, Audit considers that it is reasonable and logical to compare, on a like-with-like basis, the over-provision of subvention for cash allowance with the subvention for cash allowance, instead of the total subvention under subhead 367. The over-provision has exceeded 10% of the subvention to the LCC for cash allowance since 1997-98 and has been 14% or more of such subvention since 1998-99 (see Audit comments on para. 5(i) in Appendix I to the letter from the Director of Audit to the PAC dated 24 June 2003).*

## Paragraph (c)

### *LCC's view*

The use of 15%, instead of 100%, of a full year's contract gratuities in the 1994 Resource Allocation Exercise (RAE) was a special arrangement arrived at after the Star Chamber had been requested to reconsider the funding allocation for the LCC for 1995-96. In the 1994 RAE, while the Star Chamber agreed to endorse two of the nine applications, it invited the LCS to comment on whether full year provision would be needed because lead time would be required for recruitment. The LCS suggested that, having regard to the timing of recruitment, full year provision for salaries and cash allowances be provided for 1995-96. The LCS also suggested that 15% of the year's contract gratuities be included in the first year.

*Audit comments*

*Audit considers that the inclusion of 15% of a year's contract gratuities in the 1994 RAE should not be regarded as a special arrangement which was not applicable to the RAE in years subsequent to 1994. This is because, having regard to the fact that the additional staff could report for duty on or shortly after 1 April 1995, the LCS suggested that full year provision for salaries and cash allowances be provided for 1995-96. The LCS also suggested that, in applying the formula agreed with the then Finance Branch, 15% of the year's contract gratuities be included for 1995-96 (see the second and third paragraphs of the letter from the Secretary General of the LCS to the then Secretary for the Treasury dated 27 July 1994 attached to the Secretary General's letter under reference). This suggestion of the LCS reflected that even if 100% of the year's salaries and cash allowances were provided for 1995-96, the correct percentage of the year's contract gratuities, which was agreed with the then Finance Branch to be provided for 1995-96, should be 15%.*

**Paragraph (d)**

*LCC's view*

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 the 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.

*Audit comments*

*As full funding for contract gratuities had already been included in the normal funding to the LCC for the new posts created during the period 1996-97 to 1998-99, unless all such new posts were deleted from the establishment of the LCC, any subsequent funding requests for contract gratuities for such new posts in addition to normal funding to the LCC would result in over-provision of subvention for contract gratuities. Audit evidence shows that the LCS has made requests for contract gratuities for all such (28) new posts in addition to the 100% of the year's contract gratuities included in the annual normal funding to the LCC. The double requests made by the LCC had resulted in over-provision of subvention for contract gratuities for such new posts amounting to \$15.3 million (see Appendix E of the Audit Report).*

*LCC's view*

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. The LCC does not accept that it was a request for funds for the same purpose.

*Audit comments*

*Full funding for contract gratuities for the new posts to be created during the period 1996-97 to 1998-99, supported by the Star Chamber in RAEs, for new or enhanced services had already been included in the normal funding to the LCC every year. The LCC's further request for funds, in addition to the annual normal funding, for the new posts is a request for funds for the same purpose because the posts concerned provide the same service as the service which was used to justify the creation of such posts in the RAE. The LCC's request is, in fact, a breach of the then Secretary of the Treasury's condition of funding approval that the Secretary General would not normally be allowed to repeat the request for funds for the same purpose in subsequent years.*

**Paragraph (e)**

*LCC's view*

Whether and how much of the new resources allocated in RAEs would be used to pay contract gratuities would depend on how the new service is to be delivered. Under the agreed funding mechanism, funds applied for are based on the staff establishment of the LCS at the beginning of the second year of the three-year funding cycle. The funds are not directly related to the new resources approved in RAEs.

*Audit comments*

*The crux of the matter is that the LCC has disregarded the fact that full funding for contract gratuities had already been provided in the normal funding to the LCC each year for the new posts created during the period 1996-97 to 1998-99. As a result, the subvention for contract gratuities for such new posts was over-provided each year by at least 85% (see Table 4 in para. 4.6 in the Audit Report).*

**Paragraph (f)**

*LCC's view*

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 the LCC making double requests for funding of contract gratuities.

*Audit comments*

*Please refer to Audit's comments on paragraph (d) above. As full funding for contract gratuities had already been included in the normal funding to the LCC every year for the new posts created during the period 1996-97 to 1998-99, the subsequent funding requests for contract gratuities for such new posts in addition to the normal funding to the LCC were, in fact, double requests for funding for contract gratuities and had resulted in over-provision of subvention for contract gratuities.*

*LCC's view*

The LCC forwarded to the PAC a copy of the then Secretary for the Treasury's letter dated 23 August 1997 because that was the final notification of approval for the allocation of funds by the Star Chamber. The letters dated 13 September 1996 and 8 August 1997 are only about provisional allocation and are irrelevant to show that the amount allocated was in respect of four services and under the OLV arrangement, the LCC is free to deploy resources as it sees fit.

*Audit comments*

*The letters from the then Secretary for the Treasury dated 13 September 1996 (together with the fax dated 20 September 1996) and 8 August 1997 indicated that every year, when the Star Chamber considered whether additional resources were to be allocated in respect of services, the amount of allocation was, in fact, determined with reference to the new posts to be created for the services. The Secretary General's statement that the letters are about provisional allocation is irrelevant in this context. Although the Secretary's letter dated 23 August 1997 was the final official notification of approval for the 1997 RAE, the details were reflected in the letter dated 8 August 1997. Because the amount of allocation was determined with reference to the new posts to be created and included full funding for contract gratuities for the new posts, the LCS should not request 85% of the year's contract gratuities each year in addition to the resources allocated by the Star Chamber, irrespective of whether or not the LCC is free to deploy resources allocated to it.*

**General Audit comments**

*It is worthy of note that, according to the unaudited accounts of the LCC for the year ended 31 March 2003, the reserve of the LCC increased by a further 17.3% from \$101.6 million as at 31 March 2002 to \$119.2 million as at 31 March 2003. Audit considers that urgent action should be taken by the Administration, in consultation with the LCC, to address the issues of over-provision of funds and the consequential rapid building up of the LCC's reserve.*