

**REPORT OF THE  
PUBLIC ACCOUNTS COMMITTEE  
ON  
THE REPORTS OF THE DIRECTOR OF AUDIT  
ON  
THE ACCOUNTS OF THE GOVERNMENT OF  
THE HONG KONG SPECIAL ADMINISTRATIVE REGION  
FOR THE YEAR ENDED  
31 MARCH 2007  
AND THE RESULTS OF  
VALUE FOR MONEY AUDITS (Report No. 49)**

*February 2008*

*P.A.C. Report No. 49*

## CONTENTS

		<u>Paragraph</u>	<u>Page</u>
<b>Part 1</b>	<b>Introduction</b>		
	The Establishment of the Committee	1	1
	Membership of the Committee	2	1
<b>Part 2</b>	<b>Procedure</b>		
	The Committee's Procedure	1	2
	Confidentiality undertaking by members of the Committee	2 - 3	3
	The Committee's Report	4 - 5	3
	The Government's Response	6	3
<b>Part 3</b>	<b>Report of the Public Accounts Committee on Report No. 46 of the Director of Audit on the Results of Value for Money Audits <i>[P.A.C. Report No. 46]</i></b>		
	Laying of the Report	1	4
	The Government Minute	2 - 8	4 - 12
<b>Part 4</b>	<b>Report of the Public Accounts Committee on the Reports of the Director of Audit on the Accounts of the Government of the Hong Kong Special Administrative Region for the year ended 31 March 2006 and the Results of Value for Money Audits (Report No. 47) and Supplemental Report of the Public Accounts Committee on Report No. 46 of the Director of Audit on the Results of Value for Money Audits <i>[P.A.C. Report No. 47]</i></b>		
	Laying of the Report	1	13
	The Government Minute	2 - 49	13 - 31

## CONTENTS

	<u>Paragraph</u>	<u>Page</u>
<b>Part 5</b>	<b>Committee Proceedings</b>	
	Consideration of the Director of Audit's Report	1 32
	Meetings	2 32
	Arrangement of the Report	3 - 4 32
	Acknowledgements	5 32
<b>Part 6</b>	<b>Observations of the Public Accounts Committee on the Report of the Director of Audit on the Accounts of the Government of the Hong Kong Special Administrative Region for the year ended 31 March 2007</b>	1 33
<b>Part 7</b>	<b>Chapter</b>	
	<b>1. Hong Kong Tourism Board: Corporate governance and administrative issues</b>	1 - 2 34
	<b>2. Hong Kong Tourism Board: Planning, execution and evaluation of marketing activities</b>	1 35
	<b>3. Outsourcing of the management of public rental housing estates</b>	
	A. Introduction	1 - 2 36
	B. Protection of non-skilled workers engaged in outsourcing contracts	3 - 21 36 - 44
	C. Procurement of services and contract administration	22 - 34 44 - 47
	D. Monitoring of the performance of property services agents	35 - 42 47 - 50
	E. Performance management and contingency planning	43 - 47 50 - 51
	F. Conclusions and recommendations	48 52 - 56

## CONTENTS

	<u>Page</u>
<b>SIGNATURES OF THE CHAIRMAN, DEPUTY CHAIRMAN AND MEMBERS OF THE COMMITTEE</b>	57
<b>CHAPTERS IN THE DIRECTOR OF AUDIT'S REPORT NO. 49 DEALT WITH IN THE PUBLIC ACCOUNTS COMMITTEE'S REPORT</b>	58
<u>Appendix relating to Part 1: "Introduction"</u>	
<b>APPENDIX 1</b> Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region	59 - 60
<u>Appendix relating to Part 2: "Procedure"</u>	
<b>APPENDIX 2</b> Paper presented to the Provisional Legislative Council by the Chairman of the Public Accounts Committee at the meeting on 11 February 1998 on Scope of Government Audit in the Hong Kong Special Administrative Region - 'Value for Money Audits'	61 - 63
Appendices relating to Part 4: "Report of the Public Accounts Committee on the Reports of the Director of Audit on the Accounts of the Government of the Hong Kong Special Administrative Region for the year ended 31 March 2006 and the Results of Value for Money Audits (Report No. 47) and Supplemental Report of the Public Accounts Committee on Report No. 46 of the Director of Audit on the Results of Value for Money Audits <i>[P.A.C. Report No. 47]</i> "	
<b>APPENDIX 3</b> Letter of 7 June 2007 from the Chief Secretary for Administration	64 - 67
<b>APPENDIX 4</b> Action plan of the English Schools Foundation as at September 2007	68 - 69

## CONTENTS

### Page

#### Appendices relating to Part 5: “Committee Proceedings”

<b>APPENDIX 5</b>	Witnesses who appeared before the Committee	70
<b>APPENDIX 6</b>	Introductory remarks by the Chairman of the Public Accounts Committee, Dr Hon Philip WONG Yu-hong, GBS, at the public hearing of the Committee on Monday, 10 December 2007	71 - 72

#### Appendices relating to Chapter 3 of Part 7: “Outsourcing of the management of public rental housing estates”

<b>APPENDIX 7</b>	Materials of the powerpoint presentation made by the Deputy Director of Housing (Estate Management) at the public hearing on 10 December 2007	73 - 81
<b>APPENDIX 8</b>	Summary table on “Audit Commission’s recommendation and Housing Department’s response” provided by the Housing Department	82 - 83
<b>APPENDIX 9</b>	Letter of 8 January 2008 from the Director of Housing	84 - 97
<b>APPENDIX 10</b>	Estate Management Division Instruction No. M07/2007(S) issued on 7 December 2007	98 - 104
<b>ACRONYMS AND ABBREVIATIONS</b>		105 - 107

**The Establishment of the Committee** The Public Accounts Committee is established under Rule 72 of the Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region, a copy of which is attached in *Appendix 1* to this Report.

2. **Membership of the Committee** The following Members are appointed by the President under Rule 72(3) of the Rules of Procedure to serve on the Committee:

**Chairman** : Dr Hon Philip WONG Yu-hong, GBS

**Deputy Chairman** : Hon TAM Heung-man

**Members** : Hon LAU Kong-wah, JP  
Hon Andrew CHENG Kar-foo  
Hon Abraham SHEK Lai-him, SBS, JP  
Hon Jeffrey LAM Kin-fung, SBS, JP  
Hon Albert Jinghan CHENG, JP

**Clerk** : Ms Miranda HON Lut-fo

**Legal Adviser** : Mr Jimmy MA Yiu-tim, JP

**The Committee's Procedure** The practice and procedure, as determined by the Committee in accordance with Rule 72 of the Rules of Procedure, are as follows:

- (a) the public officers called before the Committee in accordance with Rule 72 of the Rules of Procedure, shall normally be the Controlling Officers of the Heads of Revenue or Expenditure to which the Director of Audit has referred in his Report except where the matter under consideration affects more than one such Head or involves a question of policy or of principle in which case the relevant Director of Bureau of the Government or other appropriate officers shall be called. Appearance before the Committee shall be a personal responsibility of the public officer called and whilst he may be accompanied by members of his staff to assist him with points of detail, the responsibility for the information or the production of records or documents required by the Committee shall rest with him alone;
- (b) where any matter referred to in the Director of Audit's Report on the accounts of the Government relates to the affairs of an organisation subvented by the Government, the person normally required to appear before the Committee shall be the Controlling Officer of the vote from which the relevant subvention has been paid, but the Committee shall not preclude the calling of a representative of the subvented body concerned where it is considered that such a representative could assist the Committee in its deliberations;
- (c) the Director of Audit and the Secretary for Financial Services and the Treasury shall be called upon to assist the Committee when Controlling Officers or other persons are providing information or explanations to the Committee;
- (d) the Committee shall take evidence from any parties outside the civil service and the subvented sector before making reference to them in a report;
- (e) the Committee shall not normally make recommendations on a case on the basis solely of the Director of Audit's presentation;
- (f) the Committee shall not allow written submissions from Controlling Officers other than as an adjunct to their personal appearance before the Committee; and
- (g) the Committee shall hold informal consultations with the Director of Audit from time to time, so that the Committee could suggest fruitful areas for value for money study by the Director of Audit.

2.       **Confidentiality undertaking by members of the Committee**       To enhance the integrity of the Committee and its work, members of the Public Accounts Committee have formalised their agreement on confidentiality as a written confidentiality undertaking. Members agree that, in relation to the consideration of the Director of Audit's reports, they will not disclose any matter relating to the proceedings of the Committee that is classified as confidential, which shall include any evidence or documents presented to the Committee, and any information on discussions or deliberations at its meetings, other than at meetings held in public. Members also agree to take the necessary steps to prevent disclosure of such matter either before or after the Committee presents its report to the Council, unless the confidential classification has been removed by the Committee.

3.       A copy of the Confidentiality Undertaking signed by members of the Committee has been uploaded onto the Legislative Council website.

4.       **The Committee's Report**       This Report by the Public Accounts Committee corresponds with the Reports of the Director of Audit on:

- the Accounts of the Government of the Hong Kong Special Administrative Region for the year ended 31 March 2007; and
- the results of value for money audits (Report No. 49),

which were tabled in the Legislative Council on 28 November 2007. Value for money audits are conducted in accordance with the guidelines and procedures set out in the Paper on Scope of Government Audit in the Hong Kong Special Administrative Region - 'Value for Money Audits' which was tabled in the Provisional Legislative Council on 11 February 1998. A copy of the Paper is attached in *Appendix 2*.

5.       In addition, this Report takes stock of the progress of the action taken by the Administration on the recommendations made in the Committee's Report Nos. 46 and 47 and offers the Committee's views on the action taken. These are detailed in Parts 3 and 4 of this Report.

6.       **The Government's Response**       The Government's response to the Committee's Report is contained in the Government Minute, which comments as appropriate on the Committee's conclusions and recommendations, indicates what action the Government proposes to take to rectify any irregularities which have been brought to notice by the Committee or by the Director of Audit and, if necessary, explains why it does not intend to take action. It is the Government's stated intention that the Government Minute should be laid on the table of the Legislative Council within three months of the laying of the Report of the Committee to which it relates.



**Laying of the Report** Report No. 46 of the Director of Audit on the results of value for money audits was laid in the Legislative Council on 26 April 2006. The Committee's subsequent Report (Report No. 46) was tabled on 12 July 2006, thereby meeting the requirement of Rule 72 of the Rules of Procedure of the Legislative Council that the Report be tabled within three months of the Director of Audit's Report being laid.

2. **The Government Minute** The Government Minute in response to the Committee's Report No. 46 was laid in the Legislative Council on 18 October 2006. A progress report on matters outstanding in the Government Minute was issued on 4 October 2007. The latest position and the Committee's further comments on these matters are set out in paragraphs 3 to 8 below.

**Management of the government fleet**  
(Chapter 3 of Part 4 of P.A.C. Report No. 46)

3. The Committee was informed that:

Review of manning scale of government vessels

- the Marine Department (MD), after critically reviewing the five-year rationalisation plan developed under the revised manning scale, had decided not to adopt the plan due to the problems of creation of new posts and staff redundancy. Instead, the MD would outsource the services of the government fleet, taking into consideration the MD's manpower position as well as the efficient operation of the government fleet;

Crew deployment

- the MD was upgrading the Government Fleet Operation Management Information System for completion by the end of 2007. Upon completion, the upgraded system would be able to provide user departments with real time routings and positions of vessels through a web-based display, thus enhancing their capability to make more effective deployment of the vessels and their crew;

Low utilisation of MD and departmental vessels

- the MD's efforts in the promotion of the use of the vessel "Tin Hau" had received positive response. There had been notable improvement to its utilisation rate. In 2006-2007, the average rate of usage was 6.3 occasions per month, representing a 52% increase over that in 2005-2006. The MD would continue to monitor and maximise the use of "Tin Hau" as far as possible;

- the MD would continue to discuss with various user departments to explore opportunities for outsourcing the spare and standby vessels with a low utilisation rate, with a view to reducing the number of these vessels. The MD had also transferred crew staff of vessels with a lower utilisation rate to the reserve pool for duties on board other vessels as well as in the dockyard services team;

#### Management of in-house maintenance work and staff

- the MD was upgrading the Government Fleet Information System (GFIS) which recorded details of all in-house maintenance work. Upon the completion of the upgrading by late 2007, the system would be able to produce monthly reports for the MD to compare the cost-effectiveness of services provided by individual in-house maintenance workshop against those by private contractors;
- separately, the MD had planned to outsource a battery workshop and a forward-base workshop by the end of 2008. The staff working in the workshops would be re-deployed to other duties after necessary retraining;

#### Administration of maintenance contracts

- the MD had identified two types of vessels, i.e. “Damen” type (seven vessels) and “Logistics” type (four vessels), for maintenance work to be provided through term contracts. The term contract for the maintenance of the “Damen” type vessels would be awarded in early 2008 to test out the merits. Depending on the outcome of the trial, the MD would consider extending the use of term contracts to the provision of maintenance services for other types of vessels, including the “Logistics” type;

#### Charging on the use of workshops by contractors

- the MD, in consultation with other relevant departments, was considering the charging scheme as well as other possible options including allocation through a ballot or restricted tender for the use of workshops by contractors;

#### Demerit points allotment guidelines

- the MD issued a set of revised guidelines in March 2007 to assist inspecting staff in determining the seriousness of the offences committed by maintenance contractors and deciding whether demerit points could be allotted to the contractors without prior verbal warning;

Conduct of stock review to ascertain the increase in stock level

- the MD had engaged term contractors for providing engine maintenance services as well as the required spare parts. With this arrangement, it was expected that the number and the total value of spare parts in stock would be reduced. The MD would continue to explore other alternatives for reducing the stock level;

Adjustment to the cost of spare parts recorded at zero value

- since August 2006, all spare parts procured with new vessels had been recorded with the purchase value in the GFIS. The MD had also rectified all the inventory records originally recorded at zero value;

Review of the reasons for extra downtime

- the MD would continue to maintain close communication with user departments to ensure that crew staff were available during sea trials. The MD would also ensure the stable supply of spare parts to reduce vessel downtime; and

Additional key performance measures in the Controlling Officer's Report (COR)

- the MD had already included three additional key performance measures, namely "user satisfaction with Government Dockyard's services", "successful first sea trials after vessel maintenance" and "crew staff time available for deployment", in the 2007-2008 COR to reflect the extent to which the MD met its programme aim of providing cost-effective marine transport services to government departments.

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

**Provision of public museum services**

*(Chapter 4 of Part 4 of P.A.C. Report No. 46)*

5. The Committee was informed that:

Acquisition and management of museum collection items

- the Leisure and Cultural Services Department (LCSD) continued its effort to clear the backlog of collection items pending accession in the Hong Kong Museum of History, the Hong Kong Heritage Museum and the Hong Kong Film Archive. Of the 257,780 backlog items, the Hong Kong Museum of

History had processed most of them leaving about 3,726 items to be accessioned in the coming two years. As for the Hong Kong Heritage Museum, it had accessioned 9,608 backlog items up to June 2007 and planned to complete accessioning of the remaining 9,142 items in two years' time. The Hong Kong Film Archive had accessioned about 22,000 backlog items and had engaged more contract staff to assist in the accessioning work. The Hong Kong Film Archive aimed at clearing the remaining approximately 414,000 items in the coming three years. The task group formed to monitor the progress of clearing collection items pending accession conducted five site inspections in the past year and would continue to closely monitor the progress of the accessioning every four months;

- the LCSD had drawn up the objective, scope of works and cost estimates in respect of the proposed Central Museum Collection Repository as a means to solve the storage problem. The LCSD would seek funding in accordance with the established procedures. In the interim, the storage space at the Cornwall House in Quarry Bay would be provided for the Hong Kong Film Archive for the collection and documentation of films and film-related items, pending completion of renovation works by March 2008. The LCSD would also continue to explore with the Government Property Agency the feasibility of identifying temporary storage space for the other museums;

#### Operation of LCSD museums

- as regards the disposal of unsold museum publications, the LCSD held two other special sale events, one from 16 December 2006 to 7 January 2007 during the Christmas and New Year period and another from 12 to 13 May 2007 during the International Museum Day. The total number of copies sold was 2,217, generating a revenue of \$202,902. The LCSD would continue to conduct the annual museum publications sale on the International Museum Days, and would also organise similar sales in the coming years. Moreover, museum publications were now available for sale through the Internet. The public could place an order via museums' web pages to purchase museum publications. Besides, consignment sales had been made with local publication retail companies, bookshops and video shops to promote the sale of museum publications;

#### Performance of LCSD museums

- the Committee on Museums (CoM) submitted its Recommendation Report to the Government on 30 May 2007. The report set out recommendations on long-term strategic plans for the development of museum facilities and services. The report together with the Government's response was presented to the Legislative Council's Panel on Home Affairs on 18 June 2007. The CoM's recommendations covered the following main areas:

- (a) development strategy of public museum services;
- (b) performance enhancement and promotion of patronage;
- (c) community involvement and partnership;
- (d) funding of public museums;
- (e) governance of public museums; and
- (f) staff development in public museums.

The Government had accepted in principle the recommendations made by the CoM, and was carefully examining the details of the recommendations with a view to working out an implementation plan. In the meantime, the LCSD would introduce improvement measures for enhancing museum operation and management as recommended by the CoM;

- the LCSD was taking action to replace the planetarium projection system in the Space Theatre of the Hong Kong Space Museum with a system of multi-language and interactive devices. The new system was expected to be ready for use in December 2008;
- the LCSD continued to promote the Museum Pass Scheme. As at July 2007, a total of 53,000 applicants had been enrolled. Moreover, the LCSD organised the “Two Leisurely Days” on 1 and 2 July 2007 by offering free admission to its museums and these events were believed to have enhanced the public’s interest in museums and helped boost future museum patronage;
- the LCSD was proceeding with the necessary administrative procedures for making available the museum facilities for hire. As a pilot scheme, the LCSD would make available the Flagstaff House Museum of Tea Ware and the Hong Kong Heritage Discovery Centre for hiring for wedding ceremonies in mid-2008; and
- a new public opinion survey on museum services had been scheduled for December 2007 and January 2008. Based on the findings of the survey, the LCSD would formulate new plans and measures for improving its museum services.

6. The Committee wishes to be kept informed of further progress on the subject.

**RTHK: financial control and resource management**  
(Chapter 5 of Part 4 of P.A.C. Report No. 46)

7. The Committee was informed that:

Culture of compliance

*Cases involving suspected irregularities and non-compliance with management rules and regulations*

- Radio Television Hong Kong (RTHK) had completed the investigation into cases involving suspected non-compliance. Having regard to the advice from the Civil Service Bureau (CSB)'s Secretariat on Civil Service Discipline, RTHK had completed follow-up actions on the majority of the cases. Discussions with the CSB on some other cases were still in progress;

Management of departmental contract staff (DCS) and service providers

*Fee scale table*

- RTHK had implemented revised fee scale tables for DCS III and service providers. The revised fee scales had taken into account all the recommendations made by the Director of Audit (D of A), including streamlining job types and fee ranges/tiers for individual job titles, benchmarking new pay rates against civil service pay scale or market rates where appropriate. Guidelines for applying the different tiers in the fee scale tables had been developed and issued to the staff;

*Maintenance of attendance records of DCS/service providers*

- RTHK had implemented a revised mechanism on attendance recording for its non-civil service contract (NCSC) staff, DCS and service providers. Attendance record forms had been devised for use. The role and responsibilities of parties in certifying the attendance record forms were spelt out. Post-implementation review had been performed and continuous improvements were being made to the mechanism with a view to balancing monitoring needs and administrative efficiency;

*Practice of seeking covering approval*

- after reminding all staff of the related rules and regulations of seeking prior approval for overtime (OT) work and additional work, RTHK had checked the compliance in this respect. The situation had significantly improved. However, covering approval for OT work, arising from urgent operational requirement, was sometimes inevitable. In such cases, covering approval was normally sought within a week after OT work had been carried out;

- on service contracts for service providers, RTHK had made continuous effort to improve the contract preparation and administration processes. Monthly reports on the number of service contracts signed after work had commenced were produced for the management's review and monitoring. There were exceptional instances that RTHK might not be able to sign the contracts before work commenced. For example, RTHK needed to engage overseas correspondents for providing urgent news coverage happening on the same day. Nevertheless, RTHK would endeavour to sustain its effort and maintain vigilance of its staff to avoid covering contracts. In addition, RTHK had completed the feasibility study on an e-process to streamline contract preparation. System design was under way;

#### *Efforts to rationalise DCS structure*

- migration of DCS III to NCSC structure had started since January 2007. Existing full-time and part-time DCS III would be offered NCSC terms if they met service needs and the conditions for contract renewal. The complete phasing out of DCS III would be concluded by January 2008;
- regarding DCS I, the CSB considered, having regard to the ambit of NCSC staff scheme, that the employment of the remaining 18 DCS I staff on existing terms was regarded as more appropriate at this stage;

#### Management of outsourcing activities

##### *Compliance with the terms of outside broadcast (OB) contracts*

- the concerned OB term contracts expired in August 2006. Prior to their expiry, RTHK had strengthened its contract monitoring procedures to ensure that the staff supplied by the contractor met the experience requirement specified in the contracts. For similar OB term contracts in future, RTHK would ensure that the contractors complied with all contract terms;

##### *Management of the Technical Services Agreement (TSA)*

- TSA contract expired in September 2006. Before the expiry, RTHK had worked with TSA contractor to reduce standby-for-booking hours and OT payments. Under the new Broadcasting Services Contract, charging for production operation services, including regular OB services, was based on actual usage hours;

#### Management of drivers' OT work

- after implementing various measures to better manage drivers' OT work since June 2006, RTHK had been conducting random checks on drivers' OT and holiday work, meal break arrangements, completion of vehicle logbooks,

parking of vehicles at RTHK Headquarters, etc. The results were generally satisfactory. In addition, RTHK had also conducted regular random checks on OT work registers of different sections within the Department;

- RTHK had arranged bulk contracts for newspaper delivery to the Newsrooms and other sections. This arrangement was working well;

#### Stores and procurement matters

- all recommendations in the Government Logistics Department's system survey report had been implemented, including but not limited to:
  - (a) putting in place new procedures relating to purchases not exceeding \$1,000 to reduce covering orders;
  - (b) increasing use of bulk contracts and purchasing cards; and
  - (c) issuing revised departmental instructions on procurement;
- RTHK had completed its 2005-2006 annual inventory check. It had also issued a set of new departmental guideline on good management of inventory and conducted briefings and workshops for its staff;
- the handover of TSA inventories had been completed and around 500 lost items were identified. RTHK had, in consultation with the Financial Services and the Treasury Bureau, worked out the methodology to calculate the indemnity for the lost items. RTHK had also reached agreement with TSA contractor on the compensation amount based on the agreed methodology;

#### Entertainment expenses

- the revised guidelines on the reimbursement of entertainment expenses for programme liaison had been promulgated. RTHK had also revised the claim limits on programme-related entertainment in line with the spending limits on official entertainment;
- RTHK held a Lunar New Year gathering with other electronic media in February 2007. RTHK management had carefully considered the need for holding the gathering. The justifications and approval for the gathering were properly documented; and



Management of sponsorship

- the Commerce and Economic Development Bureau was reviewing the Policy Guidelines on RTHK's Acceptance of Sponsorship for Programmes in consultation with RTHK. It would make reference to international practices and take into account the local context when considering whether the Policy Guidelines should be amended.

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

**Laying of the Report** The Report of the Director of Audit on the Accounts of the Government of the Hong Kong Special Administrative Region for the year ended 31 March 2006 and his Report No. 47 on the results of value for money audits were laid in the Legislative Council on 15 November 2006. The Committee's subsequent Report (Report No. 47) was tabled on 7 February 2007, thereby meeting the requirement of Rule 72 of the Rules of Procedure of the Legislative Council that the Report be tabled within three months of the Director of Audit's Report being laid.

2. **The Government Minute** The Government Minute in response to the Committee's Report No. 47 was laid in the Legislative Council on 16 May 2007. A progress report on matters outstanding in the Government Minute was issued on 4 October 2007. The latest position and the Committee's further comments on these matters are set out in paragraphs 3 to 49 below.

### **Diesel vehicle emission controls**

*(Paragraphs 3 to 4 of Part 3 of P.A.C. Report No. 47)*

3. The Committee was informed that:

#### Diesel vehicle inspection and maintenance programme

- regarding the rated power output of a vehicle in a dynamometer smoke test, the transport trades had indicated that they had difficulties in meeting the tighter power output requirement. The Environmental Protection Department (EPD) and the Transport Department (TD) would closely monitor the situation and consider tightening the requirement when practicable;
- the proposed amendment to the Road Traffic (Construction and Maintenance of Vehicles) Regulations to tighten the smoke opacity standard adopted by the TD to that currently adopted by the EPD, viz. 50 Hartridge Smoke Units, was tabled at the Legislative Council for negative vetting in July 2007. The new standard was expected to take effect from 1 May 2008; and

#### Smoky vehicle control programme

- in the consultation completed in 2005, the transport trades objected to shortening the prescribed period for vehicle owners served with an emission testing notice to present their vehicles for a dynamometer smoke test from 14 working days to 12 working days. To further pursue the proposal, the EPD started in the second quarter of 2007 another round of consultation. The trade consultation would be completed within 2007.

4. The Committee wishes to be kept informed of further progress on the subject.

## **Provision of aquatic recreational and sports facilities**

*(Paragraphs 8 to 9 of Part 4 of P.A.C. Report No. 47)*

5. The Committee was informed that:

### Improving water quality of the gazetted beaches in Tsuen Wan District

- following the Legislative Council (LegCo)'s approval of the proposed increases in the sewage charge, the Administration was proceeding to advance the provision of disinfection facilities of the Harbour Area Treatment Scheme Stage 2A at the Stonecutters Island Sewage Treatment Works with a view to improving the water quality of the gazetted beaches in Tsuen Wan as soon as possible;
- the Drainage Services Department had completed the Environmental Impact Assessment (EIA) study for advancing the disinfection facilities concerned. Subject to the completion of the statutory EIA process under the Environmental Impact Assessment Ordinance in November 2007, the Administration aimed to seek funding approval from the LegCo for the construction of the advanced disinfection facilities in early 2008. The Administration expected that the water quality of the gazetted beaches in Tsuen Wan would improve once the advanced disinfection facilities were in operation, targeted for October 2009;

### De-gazetting of the Rocky Bay Beach

- the de-gazetting of the Rocky Bay Beach had been held up, since the Shek O Residents Association had raised objection to the return of the beach to the Lands Department (Lands D) and had requested the Leisure and Cultural Services Department (LCSD) to continue to manage the beach. The LCSD would consult the Southern District Council (DC) again in September 2007;

### De-gazetting of the Kiu Tsui Beach on Sharp Island

- since a private developer had submitted an application for developing part of the Sharp Island for recreational use, the Lands D was now seeking clarification from the private developer regarding details of the application (such as the uses, layouts and gross floor areas of the facilities proposed to be erected and the additional area to be required for lease). Upon receipt of more detailed information from the private developer, the Lands D would consult other relevant government departments, including the LCSD, on the proposals;

- as regards the feasibility of using the sandy beach adjacent to the Kiu Tsui Beach as a gazetted beach, the Environmental Protection Department (EPD) was conducting a water monitoring programme for the sandy beach. The results of the monitoring work would be available by the end of 2007. The LCSD had also invited the Civil Engineering and Development Department (CEDD) to conduct a feasibility study on the sea profile of the sandy beach so as to further assess its suitability for conversion into a gazetted beach. Once the results of the EPD's and the CEDD's studies were available, the LCSD would consult the Sai Kung DC as appropriate on the future use of the Kiu Tsui Beach and the feasibility of designating the adjacent sandy beach as a gazetted beach;

#### Alignment of fees and charges of all swimming pool complexes

- in conjunction with the Home Affairs Bureau, the LCSD was reviewing the fee structure and evaluating the financial implications arising from various options of fee alignment proposals for the use of public swimming pools together with other recreation and sports facilities in one go; and

#### Swimming training courses

- the review on the class size and the instructor-to-participant ratio of the swimming training courses had been completed. With the size of the swimming classes under the Progressive Swimming Scheme increased by one-third since 2005, the programme fees collected for the swimming courses had fully covered the instructor cost. The LCSD was conducting a review on the fee level of swimming training courses as part of the overall review exercise on the fees and charges for recreation and sports programmes.

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

### **University Grants Committee funded institutions — Governance, strategic planning and financial and performance reporting**

*(Paragraphs 10 to 11 of Part 4 of P.A.C. Report No. 47)*

7. The Committee was informed that the Court of the University of Hong Kong (HKU) resolved in December 2005 that the University of Hong Kong Ordinance should be amended so that the descriptions of the respective roles of the Council and the Court therein would be consistent with their powers as set out in the relevant statutes. The HKU was preparing the relevant legislative amendments in accordance with the decision of the Court and planned to submit their proposal to the Administration for consideration within 2007.

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

**University Grants Committee funded institutions — General administrative services**  
*(Paragraphs 12 to 13 of Part 4 of P.A.C. Report No. 47)*

9. The Committee was informed that:

Provision of senior staff quarters

*University Grants Committee (UGC) Working Group on Housing Arrangement After Deregulation of University Salaries*

- the Administration and the Secretary-General, UGC, were examining the joint proposal put forward by UGC-funded institutions regarding the funding arrangement for staff housing benefits after the deregulation of salaries. Subject to the outcome of their deliberations, the proposal would be submitted to the Working Group on Housing Arrangement After Deregulation of University Salaries for consideration; and

Student hostels

*Review of the existing policy on students' grants and loans*

- the advisory committee that advised the Administration on the operation of the Tertiary Student Finance Scheme — Publicly-funded Programmes (formerly named as Local Student Finance Scheme) had previously recommended, among other things, that needy students should be provided with an accommodation expenses loan. This recommendation would be considered in the context of a consultancy study on the establishment of a simpler, more viable and sustainable mechanism for setting and adjusting the levels of student financial assistance.

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

**University Grants Committee funded institutions — Staff remuneration packages and stipends**  
*(Paragraphs 14 to 15 of Part 4 of P.A.C. Report No. 47)*

11. The Committee was informed that the Hong Kong Polytechnic University (PolyU) Council had considered the Administration's feedback on the preliminary proposal to

amend section 9(3)(c) of The Hong Kong Polytechnic University Ordinance to define more clearly the PolyU Council's role in drawing up the University's policy governing the terms and conditions of service of staff. The PolyU Council planned to submit a revised proposal to the Administration before the end of 2007.

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

**Provision of slaughtering facilities for supplying fresh meat**  
*(Paragraphs 18 to 19 of Part 4 of P.A.C. Report No. 47)*

13. The Committee was informed that:

- in examining the feasibility of modifying the Sheung Shui Slaughterhouse (SSSH) to cater for the increase in the slaughtering throughput of pigs, the Food and Environmental Hygiene Department (FEHD) reviewed the options recommended by the consultants in June 2007. The consultants considered that the capacity of the existing SSSH site was not able to cater for the total daily pig slaughtering throughput of the SSSH and the Tsuen Wan Slaughterhouse (TWSH) if slaughtering was to be centralised at the SSSH, unless expansion work beyond the confines of the existing site boundary was done. The consideration, nevertheless, was made on the basis of the outcome of the study to forecast the slaughtering throughput of livestock in Hong Kong completed in 2004. The study had yet to take into account the effect of the importation of chilled pork from the Mainland which started on a modest scale in August 2006. Import of Mainland chilled pork had since increased substantially (by about 145%); and
- in the light of the above new development, the FEHD would initiate an exercise to update the forecast on the slaughtering throughput of pigs taking into account the displacement effect of chilled pork on fresh pork. The updated figures would be used to review the scale and assess the cost of modification works required for centralising the slaughtering of pigs at the SSSH. In parallel, the Administration was assessing other factors, such as the financial requirements that might arise from the closure of the TWSH before its land lease expired in 2047 and the strategic risk of using a single slaughterhouse to supply fresh pork, beef and mutton in Hong Kong, etc. The Administration would consider the assessment results and other related factors before making recommendations on the way forward.

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

### **Services provided by the Official Receiver's Office**

*(Paragraphs 20 to 21 of Part 4 of P.A.C. Report No. 47)*

15. The Committee was informed that:

- the subsidiary legislation of the Bankruptcy (Amendment) Ordinance 2005 was passed by the Legislative Council on 14 June 2007. With the completion of the legislative amendments, the Amendment Ordinance was expected to commence operation by late 2007. The legislative changes would facilitate the outsourcing of debtor-petition summary bankruptcy cases (i.e. each with estimated realisable assets of not more than \$200,000) to private sector insolvency practitioners (PIPs) by the Official Receiver's Office (ORO). The ORO planned to launch a pilot scheme to outsource the cases to PIPs initially on a small scale in early 2008. The ORO would review the cost of operation and question of fees and cost recovery rate after the implementation of the outsourcing; and
- the ORO would also consider the proposed "cab-rank" system and some form of authorisation of PIPs in the context of the evaluation of the implementation of the pilot outsourcing in the future.

16. The Committee wishes to be kept informed of further progress on the subject.

### **Recoverability of the outstanding advances to the UNHCR**

*(Paragraphs 22 to 23 of Part 4 of P.A.C. Report No. 47)*

17. The Committee was informed that:

- the Administration had continued to urge the United Nations High Commissioner for Refugees (UNHCR) to make renewed efforts to appeal to the international community for donations to allow early repayment of the outstanding advances, which remained at \$1,162 million. Apart from raising the issue when meeting with the UNHCR representatives in November 2006 and January 2007, the Security Bureau had written to the Head of Hong Kong Sub-office of the UNHCR again in February and August 2007 for this purpose; and
- the UNHCR expressed that due to other more pressing service needs, it was not optimistic that the repayment could be made in the foreseeable future. Nevertheless, the Administration would continue to pursue repayment of the outstanding advances.

18. The Committee wishes to be kept informed of the action taken by the Administration in pressing the UNHCR to repay as soon as possible the outstanding advances to the Government of the Hong Kong Special Administrative Region.

**Footbridge connections between five commercial buildings in the Central District**  
(Paragraphs 24 to 25 of Part 4 of P.A.C. Report No. 47)

19. The Committee was informed that:

- as the column of the proposed footbridge would affect the station entrances/exits of the proposed Shatin to Central Link (SCL), the then Kowloon-Canton Railway Corporation had raised objection to the proposed footbridge during consultation; and
- the Administration was discussing the implementation details of the proposed SCL scheme and the way forward for the footbridge proposal with the Mass Transit Railway (MTR) Corporation.

20. The Committee wishes to be kept informed of the way forward for the footbridge proposal in conjunction with the SCL scheme of the MTR Corporation.

**Residential services for the elderly**  
(Paragraphs 26 to 27 of Part 4 of P.A.C. Report No. 47)

21. The Committee was informed that the Administration had consulted the Elderly Commission (EC) and the Legislative Council Panel on Welfare Services earlier on the proposal to provide subsidised infirm care to medically stable infirm elders in a non-hospital setting. Taking into account the comments from the EC and the Panel, the Administration was considering the best way forward and aimed at briefing the Panel on the latest development in the second quarter of 2008.

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

**Special Finance Scheme for small and medium enterprises**  
(Paragraphs 28 to 29 of Part 4 of P.A.C. Report No. 47)

23. The Committee was informed that all government guarantees under the Special Finance Scheme for small and medium enterprises had expired. The Treasury had been processing claims for compensation with the assistance of the Department of Justice and the



Hong Kong Monetary Authority as necessary. So far 1,404 claims involving a total of \$322 million had been settled. Another 20 claims involving a total of \$11 million had been suspended from processing as requested by the participating lending institutions in view of active repayment by the borrowers. The Treasury was processing the remaining 23 cases involving a total of \$6 million.

24. The Committee wishes to be kept informed of further progress on the subject.

### **Small house grants in the New Territories**

*(Paragraphs 30 to 36 of Part 4 of P.A.C. Report No. 47)*

25. The Committee was informed vide the Government Minute tabled in the Legislative Council on 16 May 2007 that the review of the small house policy had still not been concluded as there were remaining issues which required further deliberation within the Administration. In view of the imminent end of the tenure of office of the then Secretary for Housing, Planning and Lands (SHPL), who had undertaken in December 2002 to pursue within the tenure of his office the review of the small house policy and related issues in a comprehensive manner, and resolve the associated problems once and for all, the Committee wrote to the Chief Secretary for Administration on 31 May 2007 to urge him to ensure that the Administration would expedite the review of the small house policy so that it would be completed and the associated problems resolved without delay.

26. The **Chief Secretary for Administration**, in his letter of 7 June 2007 in **Appendix 3**, informed the Committee of the measures that had been implemented and other initiatives under consideration by the Administration. The **Chief Secretary for Administration** also stated that the SHPL had set for himself a bold target to resolve the associated problems within the tenure of his current office. However, the complexity of the remaining issues surrounding the comprehensive review and the wide range of considerations that had to be weighed in the deliberation process were such that the exercise was necessarily time-consuming. Work on this very important and complex issue would not cease with the end of the SHPL's tenure.

27. The Committee wishes to be kept informed of further development on the review of the small house policy.

**Public markets managed by the Food and Environmental Hygiene Department**  
(Paragraphs 37 to 38 of Part 4 of P.A.C. Report No. 47)

28. The Committee was informed that:

Review of the demand for public market facilities

- the Food and Health Bureau and the Food and Environmental Hygiene Department (FEHD) were reviewing the policy on wet markets and aimed for completion in early 2008. The Administration would brief the Legislative Council (LegCo) and relevant stakeholders on any major findings and consult them on the recommendations prior to implementation. Meanwhile, the FEHD would continue to implement measures to improve the facilities and viability of wet markets, such as market improvement works, promotional activities, maintaining a high standard of cleanliness in markets and the enforcement of the monthly market cleansing day, maintaining flexibility in determining and changing the trade of individual stalls, and where feasible, the stall size and merging of selected vacant small stalls to form larger stalls and lowering the upset auction prices of long-standing vacant stalls in selected markets to attract potential bidders; and

Study to identify markets that might merit closure and details of the Food and Health Bureau's rationalisation plan to be drawn

- the Food and Health Bureau and the FEHD aimed at completing the study on closure of non-viable markets, which was part of the overall wet market policy review, in early 2008. The closure of Mong Kok Market and the Yau Tsim Mong District Council's suggestion on the package offered to the affected tenants would be addressed in the overall context of the study.

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

**The acquisition and clearance of shipyard sites**  
(Paragraphs 43 to 44 of Part 4 of P.A.C. Report No. 47)

30. The Committee was informed that the Lands Tribunal heard certain points of law as preliminary issues to facilitate the determination of the appropriate valuation basis for assessing compensation for the site, and handed down its judgment on 25 May 2007, ruling in favour of the Administration. The ex-lessee filed an appeal, which would be heard by the Court of Appeal in September 2008.

31. The Committee wishes to be kept informed of the progress of the various courses of action taken by the Administration.

### **Funding of tertiary education**

*(Paragraphs 45 to 46 of Part 4 of P.A.C. Report No. 47)*

32. On the funding of self-financing activities, the Committee was informed that according to the University Grants Committee (UGC)-funded institutions, all directly identifiable costs of the operation of student hostels had been fully met by hostel fees. The UGC was ascertaining the amount of overhead charges involved in student hostel operation and would examine how such charges should be dealt with in consultation with the institutions. The UGC aimed to complete the process by mid-2008.

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

### **Government subsidies to the English Schools Foundation**

*(Paragraphs 47 to 48 of Part 4 of P.A.C. Report No. 47)*

34. The Committee was informed that the Administration would start substantive discussion with the English Schools Foundation (ESF) on the review of the subvention arrangements after the ESF had implemented its governance reform and put in place a sound governance structure. At this stage, the Government had not come up with any specific proposals.

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

### **Corporate governance and Headquarters administration of the English Schools Foundation**

*(Paragraphs 49 to 50 of Part 4 of P.A.C. Report No. 47)*

36. The Committee was informed that:

#### Corporate governance

- the English Schools Foundation (Amendment) Bill 2007 had been introduced into the Legislative Council (LegCo) on 30 May 2007 and was being scrutinised by a Bills Committee. The Bill proposed amendments to The English Schools Foundation Ordinance to give effect to a new governance framework, which would include the following features:

- (a) a Board of Governors would be established in which parents, School Council Chairmen, LegCo Members and representatives of the wider community would form a substantial majority;
  - (b) there would be provisions to encourage members to attend Board meetings regularly. A code of conduct would also be drawn up requiring members to declare any interest; and
  - (c) Standing Committees would be established to audit the Foundation's management processes, to make recommendations on remuneration and terms and conditions of service for staff and to advise on a financial strategy. There would not be any employees sitting on the Audit Committee nor the Remuneration Committee;
- separately, the ESF planned to make a new set of regulations under The English Schools Foundation Ordinance which would be laid before LegCo for scrutiny. The ESF expected that the legislative proposals would address the following key issues of concern raised by the Committee:
- (a) containing the size of the Foundation's membership;
  - (b) separating management functions from the governance body;
  - (c) increasing the proportion of independent members on the Foundation;
  - (d) improving attendance at meetings of the Foundation;
  - (e) reviewing staff voting right on pay and benefits in meetings of the Foundation; and
  - (f) establishing an internal audit committee; and

#### Action plan

- the ESF had updated its action plan as at September 2007 (see **Appendix 4**). For most of the remaining recommendations of the Committee, full implementation was subject to the enactment of The English Schools Foundation (Amendment) Bill 2007.

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

## **Grant of land at Discovery Bay and Yi Long Wan**

*(Paragraphs 53 to 54 of Part 4 of P.A.C. Report No. 47)*

38. The Committee was informed that:

### Site boundaries of Discovery Bay and Yi Long Wan development

- the Lands Department (Lands D) was engaging in active discussion with the industry and related professionals regarding the implementation of practical and effective measures to deter encroachment by private developments on government land, with a view to finalising and issuing a set of guidelines on the matter as soon as possible; and
- the Lands D was negotiating with the Incorporated Owners of the Yi Long Wan development on a proposal for tackling the existing land encroachment problems.

39. The Committee wishes to be kept informed of the progress of the various courses of action taken by the Administration.

## **Development of a site at Sai Wan Ho**

*(Paragraphs 55 to 56 of Part 4 of P.A.C. Report No. 47)*

40. The Committee was informed that the Administration was conducting a review of gross floor area concessions granted under the Buildings Ordinance and would seek the views of stakeholders from various sectors.

41. The Committee wishes to be kept informed of the progress of the various courses of action taken by the Administration.

## **Collection of fines imposed by Magistrates' Courts**

*(Chapter 1 of Part 7 of P.A.C. Report No. 47)*

42. The Committee was informed that:

### Review on the effectiveness of the measures for improving the collection of fines

- the Financial Services and the Treasury Bureau (FSTB) was collaborating with the Judiciary Administration and departments concerned in monitoring the progress of implementing the relevant improvement measures, with a view to rendering the collection of fines a more effective and coordinated

process. An overall review would be conducted among the parties concerned in early 2008 to assess the extent of improvement;

Criteria for application of distress warrants relating to parking contraventions and for issue of warrants relating to moving offences

- changing the criteria required modifications to the Transport Department (TD)'s Vehicles and Drivers Licensing Integrated Data (VALID) computer system. Such modifications could only be made after the full development of VALID IV project scheduled for September 2007. Departments concerned were now finalising the details of the modifications required;

Multiple applications for distress warrants in respect of the same defaulter

- the proposal to group all applications for distress warrants in respect of the same defaulter under one single court necessitated adjustments to the Judiciary's Computerised Case and Summons Management System, and would take effect upon the completion of necessary enhancements also required for the TD's computer system after the full development of VALID IV project scheduled for September 2007;

Actions taken by the prosecuting departments to ensure that they would respond promptly to the General Offices of Magistrates' Courts on the requests for additional information about defaulters as well as by the Judiciary Administration to ensure that the General Offices would promptly follow up with the prosecuting departments concerned if replies were not received and after receipt of additional information on further execution attempts

- the FSTB had reminded the prosecuting departments in writing of the need to respond promptly to the General Offices of the Magistrates' Courts on the requests for additional information about defaulters. In response, departments involved had put in place the necessary measures to ensure that this was being observed by their case officers;
- besides, the Judiciary Administration continued to ensure that the prosecuting departments were responding promptly to the General Offices of the Magistrates' Courts on their requests for additional information of defaulters. The General Offices had been sending reminders to the prosecuting departments concerned if replies were not received after two months from the date of the request. According to statistics, 2,138 requests for additional information were made to the prosecuting departments from January to July 2007. So far, 2,130 replies had been received with additional information in 406 cases. Further execution attempts were made on these 406 cases with 91 fruitful results;

Arrangement to include defaulters with five or more non-payment warrants in the Immigration Department (Imm D)'s watch list and intercept them at the control points for action by the Police

- the Imm D had since 15 April 2007 included defaulters with five or more non-payment warrants in its watch list and intercepted them at the control points for action by the Police. Up to 31 August 2007, 83 defaulters had been arrested under the arrangement, who were related to 628 non-payment warrants and outstanding fines of around \$0.77 million. The two departments would review the arrangement after it had been operated for 12 months;

Proposed legislation to empower Magistrates to award costs when making orders under section 3A and 3B of the Fixed Penalty (Criminal Proceedings) Ordinance

- the omnibus bill incorporating the proposed legislative amendment was being examined by the Bills Committee; and

Measures adopted by the Judiciary Administration, in cases where the defaulters were vehicle owners who had large amounts of outstanding parking fines, to ensure that seizure of the defaulters' vehicles was proactively used as a means of recovering the outstanding fines

- having carefully examined the effectiveness of vehicle seizures as an enforcement measure against repeated defaulters as well as the priority that departments involved could accord to this task, the Administration did not recommend taking forward this measure.

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

**Four small and medium enterprise funding schemes**  
(Chapter 4 of Part 7 of P.A.C. Report No. 47)

44. The Committee was informed that:

Small and Medium Enterprise Export Marketing Fund (EMF)

*Setting up a mechanism to collect information on benefits gained by small and medium enterprises (SMEs)*

- the Trade and Industry Department (TID) would conduct regular surveys to collect information on benefits gained by SMEs which had received grants

from the EMF. The Administration had engaged an independent institution to conduct a survey among the SMEs. The survey results would be available by the end of October 2007;

*Conducting an effectiveness review of the EMF*

- in the light of the information collected from the above surveys of SME beneficiaries, the TID would review the overall effectiveness of the EMF towards the end of 2007 in consultation with the Small and Medium Enterprises Committee (SMEC);

SME Training Fund (STF)

*Examining outstanding grant applications thoroughly*

- among the 300 outstanding cases, the TID had completed the processing of 200 cases, of which 90 were approved and 10 were rejected, while applicants for 100 cases had not submitted reimbursement claims. The TID would process the remaining 100 cases when the trainees had completed their approved training courses. The majority were expected to have done so by mid-2008;

SME Loan Guarantee Scheme (SGS)

*Reviewing the need to devote more resources to SMEs in the service sector*

- the SMEC had reviewed the scope and operation of the SGS and recommended proposals to enhance its operation, including further assistance for the service sector. The TID was finalising the arrangement relating to the proposals;

*Assessing the additional impacts of the SGS*

- the TID would conduct regular surveys to assess the additional impacts of the SGS. The Administration had engaged an independent institution to conduct a survey among SMEs. The survey results would be available by the end of October 2007;

*Drawing on overseas experience in measuring the performance of the SGS*

- the TID was studying whether and how the Administration could draw on overseas experience to help assess the effectiveness of the SGS. The Administration would review the results towards the end of 2007; and



### SME Development Fund (SDF)

#### *Setting up a mechanism to monitor achievements*

- the TID had put in place a standard practice requiring successful applicants to send questionnaires to SMEs to collect their feedback on SDF projects.

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

### **Hospital Authority: management of outstanding medical fees**

*(Chapter 5 of Part 7 of P.A.C. Report No. 47)*

46. The Committee was informed that the Hospital Authority had set out a number of measures to improve its management of outstanding medical fees. The Hospital Authority would continue to closely monitor the situation and review the effectiveness of various measures:

#### Collection of outstanding fees

##### *Fee collection*

- to facilitate payment of medical fees by patients thereby enhancing the collection of outstanding fees, the Hospital Authority piloted the use of self-payment kiosks to collect drug charges in one major hospital in December 2006 and the results were favourable. Self-payment kiosks were installed in five more major hospitals in August and September 2007 for patients to settle drug charges. The Hospital Authority had further planned to extend the installation of such kiosks to four other hospitals by the end of 2007 and would pilot the collection of out-patient fees by the kiosks at one major hospital in the first quarter of 2008;
- in addition to the existing means of making payment (such as by cash, cheque, Octopus Card, credit card, Easy Pay System and Payment by Phone Service), the Hospital Authority had extended the collection of medical fees through JETCO Automated Teller Machine and convenient stores starting from September 2007;

Measures to minimise the need for recovery and write-off of fees

*Introduction of an administrative charge for late payments*

- the Hospital Authority had introduced since 1 July 2007 the administrative charge on late settlement of medical bills in order to deter late payment. For payment outstanding for 60 days, a 5% administrative charge of the payment amount, subject to a cap of \$1,000, would be charged. For payment outstanding for 90 days, an additional 10% administrative charge of the total outstanding amount, subject to a cap of \$10,000, would be charged. The above two-tier administrative charge applied to all medical services rendered on or after 1 July 2007. The first batch of notice of administrative charge for outstanding fees since 1 July 2007 was issued on 29 August 2007 (i.e. 60 days from 1 July 2007). The Hospital Authority would closely monitor the effectiveness of the administrative charge and would review the situation three months after implementation;

Use of public medical services by non-eligible persons (NEPs)

*Curtailment of non-emergency medical service*

- in line with its policy to give priority to local residents in utilising public resources, starting from October 2007, the Hospital Authority would not provide non-emergency medical services to an NEP with default payment until the bill was settled. As for the eligible persons (EPs), the Hospital Authority would monitor the settlement rate of late payment by these persons following the introduction of the administrative charge on late payment, and consider extending the curtailment of non-emergency medical services to EPs if necessary;

*Use of reputable debt collection agency to pursue outstanding fees owed by NEPs*

- the Hospital Authority had explored the services available and the viable options for pursuing bad debts owed to the Hospital Authority by NEPs from the Mainland. The Hospital Authority was now assessing the cost-effectiveness of the services and looking at the issues of data privacy and the Hospital Authority's legal liability on the acts of the debt collection agency. The Hospital Authority would report its findings to the Hospital Authority Board for consideration in the fourth quarter of 2007; and

*New obstetric service arrangements for NEPs*

- since the implementation of the new obstetric service arrangements for NEPs in the Hospital Authority hospitals on 1 February 2007, NEP pregnant women who wished to give birth in Hong Kong were required to make full

non-refundable payments upon booking of delivery service. It was noted that for the period from February to June 2007, the payment rates by NEP pregnant women had improved from 85.8% to 90% by comparison with the same period in 2006. Based on comparison with reference to the same periods, the number of births by NEP pregnant women in public hospital had dropped by an average of 38.6%, while the number of NEP pregnant women who sought emergency hospital admission for delivery through the Accident and Emergency Departments had dropped by 82.8%. The above showed that the results of the implementation of the new obstetric service arrangements for NEPs had been satisfactory.

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

#### **Hospital Authority and Social Welfare Department: management of medical fee waivers**

*(Chapter 6 of Part 7 of P.A.C. Report No. 47)*

48. The Committee was informed that the Hospital Authority and the Social Welfare Department (SWD) had together launched a number of improvement measures on the management of medical fee waivers, such as revision of the waiving guidelines, quality assurance checks on approved waiver cases and training for Medical Social Workers (MSWs). The progress of other ongoing improvement measures was set out below:

##### Management control on fee waivers

###### *Prevention of fraud and abuse*

- the Hospital Authority had set up an Investigation Section (Fee Assistance Application), previously known as the Post-approval Checking Team, in March 2007 to conduct investigations on suspicious and high-risk waiver cases as referred from frontline MSWs and randomly selected by the Section from the approved waiver cases. Once any prima facie evidence on fraud and abuse cases was identified, the Hospital Authority would refer the cases to the police for follow-up action;

###### *Verification of patients' eligibility status*

- to further tighten the waiver processing system, the Hospital Authority and the SWD had already upgraded their respective computer systems to allow on-line verification of the status of Comprehensive Social Security Assistance (CSSA) recipients before the latter were granted waivers. The upgraded system, which was rolled out on 29 August 2007, facilitated the processing of

waiver application for those CSSA recipients who were not able to produce their CSSA certificates at the time of medical appointments;

*Internal audit on fee waivers*

- to help identify areas for continuous improvement of the waiver system, the SWD Internal Audit Section had conducted random reviews on waiver cases handled by Medical Social Services Units (MSSUs) since August 2007;

Provision of waiver service

*Clerical work in processing waiver application*

- to help relieve the workload of MSWs in processing waiver applications, a recruitment exercise was being conducted to employ 18 General Services Assistants (GSAs) to provide clerical support to those MSSUs currently without GSAs. Some of the newly appointed GSAs were already in post; and
- the Hospital Authority and the SWD would continue to monitor and improve the caseload and workflow of the waiver system. Subject to the availability of resources, the role and support of clerical staff in processing waiver applications involving only financial vetting would, in the long term, be strengthened so as to enable MSWs to focus on waiver applications on non-financial grounds.

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

**Consideration of the Director of Audit's Report tabled in the Legislative Council on 28 November 2007** As in previous years, the Committee did not consider it necessary to investigate in detail every observation contained in the Director of Audit's Report. The Committee has therefore only selected those chapters in the Director of Audit's Report No. 49 which, in its view, referred to more serious irregularities or shortcomings. It is the investigation of those chapters which constitutes the bulk of this Report.

2. **Meetings** The Committee held a total of 18 meetings and one public hearing in respect of the subjects covered in this Report. During the public hearing, the Committee heard evidence from a total of four witnesses, including one Head of Department. The names of the witnesses are listed in *Appendix 5* to this Report. A copy of the Chairman's introductory remarks at the public hearing on 10 December 2007 is in *Appendix 6*.

3. **Arrangement of the Report** The evidence of the witnesses who appeared before the Committee, and the Committee's specific conclusions and recommendations, based on the evidence and on its deliberations on the relevant chapters of the Director of Audit's Report, are set out in Chapters 1 to 3 of Part 7 below.

4. The audio record of the proceedings of the Committee's public hearing is available on the Legislative Council web site for the public to listen to.

5. **Acknowledgements** The Committee wishes to record its appreciation of the cooperative approach adopted by all the persons who were invited to give evidence. In addition, the Committee is grateful for the assistance and constructive advice given by the Secretary for Financial Services and the Treasury, the Legal Adviser and the Clerk. The Committee also wishes to thank the Director of Audit for the objective and professional manner in which he completed his Reports, and for the many services which he and his staff have rendered to the Committee throughout its deliberations.

*Observations of the Public Accounts Committee on the Report of the Director of Audit on the Accounts of the Government of the Hong Kong Special Administrative Region for the year ended 31 March 2007*

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The Committee noted the Report of the Director of Audit on the Accounts of the Government of the Hong Kong Special Administrative Region for the year ended 31 March 2007.

The Committee held 14 public hearings totalling 42 hours to receive evidence on this subject. It also sought and received a large amount of additional information from the witnesses.

2. As a lot of issues relating to this subject had been revealed in the course of the public hearings which were not covered in the Director of Audit's Report, the Committee has decided to defer a full report on this subject in order to allow itself more time to consider the various issues involved and the additional information provided by the witnesses.

The Committee has decided to defer a full report on this subject as it had devoted a lot of time to consider the subject of “Hong Kong Tourism Board: Corporate governance and administrative issues” (Chapter 1 of Part 7 of this Report), and could not commence public hearings on this subject before the tabling of this Report. The Committee has scheduled to hold a public hearing on this subject on 26 February 2008.



## **A. Introduction**

The Audit Commission (Audit) conducted a review to examine the economy, efficiency and effectiveness of the Housing Department (HD)'s outsourcing of the management of public rental housing (PRH) estates. The review focused on the following areas:

- protection of non-skilled workers engaged in outsourcing contracts;
- procurement of services and contract administration;
- monitoring of the performance of property services agents (PSAs); and
- performance management and contingency planning.

2. At the beginning of the Committee's public hearing, **Mr LAU Kai-hung, Deputy Director of Housing (Estate Management)**, made a powerpoint presentation, which gave a general overview of the various measures implemented by the HD to protect non-skilled workers engaged in outsourcing contracts. The presentation materials and a table summarising the progress made by the HD in implementing the various audit recommendations are in *Appendices 7 and 8* respectively. In conclusion, the **Deputy Director of Housing (Estate Management)** said that the HD had already taken actions on 28 of the 40 audit recommendations and was following up the remaining 12 recommendations.

## **B. Protection of non-skilled workers engaged in outsourcing contracts**

3. The Committee noted from paragraph 2.17 of the Director of Audit's Report (Audit Report) that of the 117 cases identified by the HD with irregularities established (irregular cases), the HD had only referred 17 cases to law enforcement agencies for investigation and issued default notices (DNs) under the Demerit Point System (DPS) in two cases, and these DNs were subsequently withdrawn. Besides, the HD had neither applied the "batch-payment adjustment" nor issued any adverse performance reports to the PSAs/contractors for the irregularities identified. It appeared to the Committee that the HD had not taken adequate regulatory actions on the suspected irregular cases. The Committee asked:

- about the reasons for not taking regulatory actions on the majority of the irregular cases, and whether other follow-up actions had been taken in respect of these cases; and
- whether the HD had issued clear and specific guidelines to frontline staff on the administration of labour protection clauses in the outsourcing contracts and on the regulatory actions to be taken against contractors violating employment-related contractual obligations.

4. **Mr CHAN Chun-yuen, Director of Housing**, stated that:

- the outsourcing of the management of PRH estates was a new arrangement for both the HD and the PSAs/contractors. Therefore, the HD had followed the Efficiency Unit (EU)'s recommendation and adopted a partnership approach in managing the contractor relationship. The HD regarded the PSAs/contractors as long-term business partners and promoted mutual trust with them. It was within this framework that the HD had developed its supervision and monitoring system, allowing the PSAs/contractors to gradually learn the requirements of outsourcing services. Given that the PSAs/contractors were like "kindergarten students" just promoted to primary schools, it would not be desirable to "kick them out of school" once they breached the school regulations. Opportunities had to be given to them to learn from and rectify the irregularities. As such, HD staff would not take regulatory actions (such as the issue of DNs) against the defaulted PSAs/contractors if they found that the irregularities were not committed wilfully or if the PSAs/contractors had undertaken to rectify the irregularities. That said, the defaulted PSAs/contractors would still be verbally warned, although such verbal warnings were not recorded. The HD would ensure that these were properly documented in future; and
- the HD's Estate Management Division had issued and updated guidelines from time to time regarding the administration of labour protection requirements in outsourcing contracts. From late 2007 onwards, the HD had applied more stringent rules, i.e. a hardline approach, against all employment-related irregularities, as both the HD staff and the PSAs/contractors had become familiar with the requirements developed over the years. The outsourcing system was complicated and the HD would continue to strive for further improvement.

5. According to the presentation made by the Deputy Director of Housing (Estate Management), one of the common irregularities for which DNs under the DPS would not be issued was miscalculation of overtime payment due to the use of the formula for calculating deduction for absentee. Usually, only verbal warnings were given to the defaulted PSAs/contractors since they would repay the shortfall of wages to the workers. The Committee enquired:

- when the HD noticed the first case with such a problem, and details of the actions that had been taken to address the problem in the first case as well as other cases with similar problem; and
- about the reasons for the recurrence of the problem despite the actions taken by the HD.

6. The **Director of Housing** replied in his letter of 8 January 2008 in *Appendix 9* that:

- there were about 10 cases of this nature handled by the HD for the period from 1 March 2006 to 28 February 2007. The dates of discovery and actions taken by the HD on these cases were provided in Annex A to *Appendix 9*. Most of these minor irregularities were detected in the first year of implementation of the measures introduced in May 2006; and
- the recurrence of similar problem could be due to the fact that these cases were scattered in different estates involving different contractors, contractors had taken time to learn from these unintentional mistakes and make improvement, and the HD had adopted a partnership approach in the past in accordance with the spirit advocated by the EU. Stepped-up action had been taken since November 2007.

7. As the HD regarded the PSAs/contractors as “kindergarten students”, the Committee queried whether the HD had been too lenient in managing the PSAs/contractors, and whether it had issued clearer guidelines to its staff on the circumstances for the issue of DNs under the DPS, as mentioned in paragraph 2.27(a) of the Audit Report.

8. The **Director of Housing** admitted that during the initial years of implementing outsourcing, the HD had indeed adopted a lenient approach in managing the PSAs/contractors as they were still in their early stage of learning. The HD should have taken more rigorous regulatory actions for some irregular cases. He also stated that clearer guidelines had already been issued to the HD staff, and provided a copy of the guidelines to the Committee (see *Appendix 10*).

9. The Committee noted from Annex C of the above guidelines that breaches concerning the arrangement of leave and fulfilment of the obligations under the Mandatory Provident Fund (MPF) Schemes Ordinance were not categorised as irregularities that warranted the issue of DNs attracting demerit points (DNBP), and that cases involving possible violation of employment-related ordinances would not be referred to law enforcement agencies for follow-up if authorisation had not been given by the workers concerned. In view of the above, the Committee asked:

- about the reasons for not issuing DNBP for breaches such as improper arrangement of leave, late contribution of MPF or absence of MPF contribution records, despite that these were serious cases involving possible violation of employment-related ordinances; and

- whether the HD could refer cases involving possible violation of employment-related ordinances to law enforcement agencies for follow-up, irrespective of whether authorisation from the workers concerned had been given.

10. The **Director of Housing**, in his letter of 8 January 2008, stated that:

- the HD had followed the guidelines issued by the Financial Services and the Treasury Bureau (FSTB) under Financial Circular No. 4/2006, which was applicable to all government departments. The guidelines stipulated that DNDP was to be issued only for any of the four breaches on contractual obligations, i.e. committed wages, daily maximum working hours, signing of standard employment contracts and wage payment by means of autopay to non-skilled workers. Whether or not to include other breaches concerning the arrangement of leave and fulfilment of the obligations under the MPF Schemes Ordinance should best be reviewed by the FSTB in the context of a unified action for all government departments. The HD's view was that these breaches were breaches of the Employment Ordinance and the MPF Schemes Ordinance respectively, enforcement actions of which should be taken by the relevant enforcement agencies, i.e. the Labour Department and the MPF Schemes Authority respectively; and
- legal advice sought by the HD had confirmed that the HD could refer cases involving possible violation of employment-related ordinances to the law enforcement agencies for follow-up. The HD would, in future, refer such cases to the relevant law enforcement agencies for necessary action.

11. The Committee referred to paragraph 2.27(b) to (f) of the Audit Report and enquired about the details of the HD's reviews, particularly the differences between past and new practices, and the follow-up actions taken by the HD. The **Director of Housing** provided further information in his letter of 8 January 2008, as follows:

*On paragraph 2.27(b) concerning review of the HD's monitoring mechanism and taking of appropriate regulatory actions*

- in the past, measures on protection of non-skilled workers were audited by the HD frontline staff on a monthly basis. Irregularities found in the monthly audits or detected by the Central Monitoring Team (CMT) would be followed up by the HD staff who would consider and decide the regulatory actions to be taken where appropriate, including the issue of warning letters, adverse reports, DNs, or delisting from the Housing Authority (HA)'s approved Lists of PSAs/Contractors. In addition to these past practices, a more stringent approach had now been adopted regarding the issue of DNDP and DN not attracting demerit points (DNNDP). For each DNDP or DNNDP, marks

would be deducted in the PSA/contractor's performance scores which would reduce their chance of success in future tendering exercises;

*On paragraph 2.27(c) concerning applying stringent rules against serious breaches of labour protection requirements*

- when the partnership approach was adopted in the past, DNDP was issued for violation of the contractual obligations only if the employment-related irregularities were committed intentionally (after considering the severity of the act and whether it was a technical fault) or if the irregularities had not been rectified by the contractor upon notification or issue of warning letters by the management. Under the new practices, stringent rules had been adopted against all employment-related irregularities;

*On paragraph 2.27(d) concerning review of the HD's regulatory system to step up regulatory actions against defaulted PSAs/contractors*

- in the past, PSAs/contractors were allowed to take rectification actions on minor irregularities if the defaults were not committed wilfully. Under the new practices, stringent rules had been adopted against all employment-related irregularities. The work flow had also been revised to enhance follow-up actions to be taken against irregular cases (see *Annex A to Appendix 10*);

*On paragraph 2.27(e) concerning details of implementation for the appointment of the CMT to oversee follow-up actions taken by estate staff*

- in the past, the CMT provided support services to estate staff in monitoring the PSAs/contractors' compliance with labour protection clauses in the contracts. The CMT centrally monitored the Employment-related Irregularities Complaint Register to keep in view of the progress and outcome of investigation and actions taken by estate staff. In addition to these practices, the CMT was now entrusted with the responsibility of overseeing the follow-up actions taken by estate staff to ensure that a consistent regulatory approach was taken in compliance with the relevant instructions; and

*On paragraph 2.27(f) concerning the issue of guidelines on the documentation of regulatory actions taken or not taken for compliance by estate staff*

- according to past practices, frontline managers had to interview the defaulted PSAs/contractors and request them to give explanations prior to the issue of DNs, and keep records of such interviews. If the frontline staff were in doubt with the explanations given by the PSAs/contractors, they should seek directives from their senior officers. DNs would be issued if the explanations given by the contractors were not acceptable. Under the new

guidelines, endorsement of District Senior Housing Manager (DSHM)/Senior Property Services Manager (SPSM) was required for each issue of DNDP/DNNDP or non-issue of DN. The fully completed cases, endorsed by DSHM/SPSM, had to be passed to the CMT for monitoring. In case there was disagreement over the outcome endorsed by DSHM/SPSM, the Regional Chief Manager's decision would be sought.

12. The **Director of Housing** also said that all of the above new practices were introduced via the Estate Management Division Instruction No. M07/2007(S) issued on 7 December 2007 (*Appendix 10*), and had been clearly disseminated to HD frontline staff and/or contractors to ensure that they were strictly adhered to.

13. The Committee noted that despite the tightened measures implemented by the HD, the number of suspected employment-related irregularities had significantly increased from 25 cases in 2004-2005 to 118 cases in 2005-2006 and 126 cases in 2006-2007, as shown in Table 2 in paragraph 2.12 of the Audit Report. The Committee queried the reason for such increase.

14. The **Deputy Director of Housing (Estate Management)** explained that the HD had, through education and publicity, enhanced the workers' awareness of their rights, and dedicated a 24-hour telephone hotline to receive complaints on employment-related issues. As a result, the number of suspected cases had increased substantially in the said two years and multifarious irregularities were identified by the HD. On the other hand, Table 2 also showed that there were only 25 cases in 2007-2008 (up to 30 June 2007), which were due to strengthened regulatory actions enforced by the HD.

15. The Committee noted from paragraph 2.31 of the Audit Report that the HA's procurement policy of removal of a defaulted PSA/contractor (with employment-related conviction or three or more demerit points under the DPS) from the HA Lists of approved PSAs/Contractors for "a maximum of five years" was not entirely consistent with the Government's requirement that tender offers submitted by a tenderer with similar conviction/demerit point records would not be considered for "a period of five years" (five-year suspension requirement). In the case referred to in paragraph 2.32 of the Audit Report where the PSA was convicted of contravening the Employees' Compensation Ordinance under a non-government contract in November 2006, the HD decided to remove the convicted PSA from the Lists for only one year from the date of conviction. It appeared to the Committee that the HA's policy was less restrictive than that of the Government and was not in line with the Government's initiatives to protect non-skilled workers. The different suspension periods imposed on the PSAs/contractors might also be perceived as unfair. The Committee therefore asked the FSTB, which promulgated the five-year suspension requirement vide Financial Circular No. 4/2006:

- about the rationale for setting the period of suspension at five years, and whether government departments were allowed to exercise flexibility to shorten the suspension period; and
- whether the HD had the discretion not to follow the Government's five-year suspension requirement.

16. **Mr Joe WONG, Deputy Secretary for Financial Services and the Treasury (Treasury)**, said that:

- it was the Government's policy that tender offers would not be considered for a period of five years if the tenderer had any employment-related conviction or had accumulated three demerit points. For the sake of clarity and consistency in implementation, the Government had set a fixed period of five years for all departments to follow, and discretionary shortening of the duration was not allowed. This also sent a clear message to the contractors that there was no room for negotiation regarding the suspension period. Strict enforcement of such requirement would produce sufficient deterrent effect on the contractors; and
- the HD, as the executive arm of the HA, could draw up its own procurement policy and procedures and was not obliged to follow the requirements in the said Financial Circular.

17. Having obtained clarification about the Government's position on the matter, the Committee enquired about:

- the HA's rationale for adopting a less restrictive policy as compared with that of the Government;
- the reasons for suspending the convicted PSA from tendering for only one year instead of the maximum of five years; and
- when the HD would bring the Government's suspension requirement to the attention of the Tender Committee (TC), as recommended in paragraph 2.36(a) of the Audit Report.

18. The **Director of Housing** and the **Deputy Director of Housing (Estate Management)** said that:

- the TC endorsed on 23 March 2006 the adoption of a tightened measure on labour protection that a PSA/contractor would be removed from the respective HA Lists of PSAs/Contractors for a maximum of five years, which was one

month before the FSTB's promulgation of the Government's tightened measure. The HA considered the Government's five-year suspension requirement too rigid if adopted across-the-board;

- when the TC discussed the particular regulatory case in July 2007, it was fully aware of the difference between the HA's prevailing procurement policy and the requirements stipulated by the FSTB. In view of the fact that the case happened in a private residential property and that the two security guards were dismissed (one dismissed during sick leave) because they breached the regulations of their company concerning staff discipline, the TC considered that removing the PSA concerned from the HA Lists for five years would be too harsh. It therefore decided on a suspension for one year instead. The decision was made after due consideration of the background, nature and severity of the case. In fact, for the seven PSAs/contractors which had been removed from the HA Lists up to August 2007, only this case was not suspended for five years; and
- although the TC had been informed at various meetings and was fully aware of the five-year suspension requirement, it consciously decided to remove defaulted contractors from the HA Lists for "a maximum of five years" having regard to the severity and nature of the convictions. Nevertheless, the HD would inform the TC again at its next meeting of the differences between the HA's procurement policy and practice and the requirements stipulated by the FSTB.

19. After the Committee's public hearing, the **Director of Housing** informed the Committee in his letter of 8 January 2008 that the FSTB's five-year suspension requirement as stipulated in Financial Circular No. 4/2006 had been brought to the attention of the TC again at its meeting on 13 December 2007. The Committee noted from the draft meeting minutes provided by the HD that most members of the TC considered HA's current policy reasonable and fair because unlike the Government, the HA had maintained its own Lists of PSAs/Contractors with strict admission criteria and adopted a selective tendering procedure. Given that the HA had had a thorough discussion with the FSTB regarding the suspension period before the said Financial Circular was issued, the TC decided that the HA should further discuss the matter with the FSTB before making a decision.

20. According to paragraphs 2.38 and 2.39 of the Audit Report, the checking conducted by the HD estate staff for monitoring and enforcing PSA/contractor's compliance with the labour protection requirements did not seem to be effective as no significant findings had been identified. On the other hand, the inspections conducted by the CMT were more fruitful. The Committee asked whether this was due to the negligence of duty on the part of some estate staff, and whether the HD would consider expanding the CMT so that all the inspections would be conducted by CMT staff.



21. The **Director of Housing** replied that the HD would regularly review its practices in carrying out inspections. As the HD had outsourced a significant proportion of its estate management services, not many estate staff were stationed in the estates. The HD had to rely on the local monitoring teams and the CMT to conduct checking. Given that CMT staff were more specialised in handling employment-related irregularities, the HD would make appropriate adjustments to strengthen the CMT.

### **C. Procurement of services and contract administration**

22. As stated in paragraphs 3.12 and 3.13 of the Audit Report, the various regulatory actions laid down by the HD, which included suspension from tendering, taking over part of the PSA's work and removal from the PSA List, sometimes might not be able to provide sufficient deterrent effect, especially on those PSAs whose workload had almost reached the List Capping Limit or who had no intention to bid for new contracts. The Committee asked whether the HD would consider introducing financial penalty against those PSAs with persistently poor performance.

23. The **Director of Housing**, in his letter of 8 January 2008, stated that:

- the HD had sought legal advice regarding the introduction of financial penalty against PSAs with persistently poor performance. The advice was that HA did not have the power to do so under the Housing Ordinance. Under the laws of contract, where one party had acted in breach of the contract, the other party was entitled to claim damages for the breach. However, damages would have to be quantified and must be genuine estimates of the loss. This was typical in a construction contract where a contractor would have to pay the employer liquidated damages of a fixed amount (for each day's delay beyond the completion date) if he failed to complete the project on time. Even so, liquidated damages clauses had been subject to legal challenges when they were perceived as a "penalty", e.g. if they were in sums disproportionate to the actual loss; and
- in view of the above, it was considered inappropriate to introduce financial penalty over and above actual losses to penalise PSAs due to their poor performance.

24. The Committee referred to Case 6 in Table 4 in paragraph 3.12 of the Audit Report where Company Y was only suspended from tendering for a short period and was still included in the PSA List, despite its persistently poor performance as reflected in the consecutive adverse reports it received. It appeared to the Committee that the HD's regulatory actions had not been effective in compelling the PSAs to improve their performance. The Committee asked why Company Y in Case 6 could still remain on the PSA List, and the criteria for removing PSAs from the List.

25. The **Deputy Director of Housing (Estate Management)** explained that:

- the HD would need to consider the special circumstances of each case when dealing with PSAs with poor performance. For Case 6, apart from the number of adverse reports received, the HD also took into account other considerations such as the tenants' assessment on the PSA's performance, which made up 30% of the overall assessment score, and the PSA contract expiry date. The HD was of the view that Case 6 did not warrant the termination of contract. However, in any case, the HD stood ready to take over the work of any underperforming PSAs if necessary. As demonstrated in Case 5 in Table 4 in paragraph 3.12 of the Audit Report, the HD took over part of the management work in one estate managed by the PSA; and
- if the PSAs had employment-related convictions under the relevant ordinances, or had accumulated three demerit points under the DPS, they would be removed from the List. The HD had also introduced four levels of regulatory actions against PSAs with adverse reports on performance, whereby the PSAs would be debarred from tendering for a certain period or be removed from the List depending on the number of adverse reports obtained within four quarterly periods.

26. According to paragraphs 3.17 and 3.19 of the Audit Report, although the HD had attached greater weighting to the past performance of tenderers in tender evaluation since June 2007, it did not include, as an assessment criterion, the number of DNs issued (with or without demerit points given) in its scoring scheme. The Committee asked whether the number of DNNDP would result in a corresponding deduction of the PSA/contractor's performance score, which would in turn affect its tendering opportunities.

27. The **Director of Housing** and the **Deputy Director of Housing (Estate Management)** said that:

- the HD had adopted a two-envelope system for tender evaluation. Apart from the financial proposal, non-financial assessment based on the tenderer's past performance and management proposal would first be considered. In June 2007, the HD revised the scoring scheme by increasing the weighting for past performance from 36% to 50%. On the other hand, the weighting for management proposal was reduced from 16% to 5%;
- when evaluating the past performance of tenderers, the TC would be informed of the number of and reasons for the issue of DNs in the tender assessment reports. The DNNDP issued would result in a corresponding deduction of the PSA/contractor's performance score, which would be taken into account during tender evaluation. Since competition among tenderers was keen, the final scores were usually compared up to the decimal place; and

- to provide incentive to PSAs with good performance, the HD gave tender opportunities to PSAs quarterly based on their performance on HA contracts. Competent PSAs with good track records were given more tender opportunities. PSAs in the top quartile were given all tendering opportunities, whereas those in the lowest quartile would have no tendering opportunities.

28. Noting that under the scoring scheme, the successful tenderer might not necessarily be the one who offered the lowest bid, the Committee asked about the percentage of the existing PSA contracts which were of the lowest bids, and the number of established employment-related irregularities for these lowest-bid contracts as compared to other contracts of higher bids.

29. The **Director of Housing** replied at the public hearing and in his letter of 8 January 2008 that of the existing 41 PSA contracts, 39% were the lowest bids and six cases of employment-related irregularities were found in these contracts. For the remaining 61% of the contracts of higher bids, another six irregular cases were identified. There seemed to be no correlation between the number of employment-related irregularities and the bids offered by the contractors. In fact, when considering the past performance of the tenderers, the HD would take into account their performance under other non-HD contracts.

30. The Committee noted from paragraph 3.26(c) and (d) of the Audit Report that in Audit's examination of PSA contracts related to 20 estates and involving 32 sub-contractors, in seven cases, the PSAs submitted their applications for seeking the HD's approval after the commencement of the sub-contracting services. In four cases, there was no documentary evidence to show that the PSAs had submitted any application seeking the HD's approval for the sub-contracting services. The Committee asked:

- whether the sub-contractors involved in these cases had further sub-contracted their services; and
- how the HD would step up the monitoring of the appointment and performance of sub-contractors.

31. In response, the **Deputy Director of Housing (Estate Management)** said that:

- the PSAs were only allowed to have one tier of sub-contracting for cleansing and security services they provided for the estates they managed, i.e. further sub-contracting of their services was not allowed; and

- since May 2006, the HD had tightened the control by requiring PSAs to employ sub-contractors from the HA Lists of PSAs/Contractors. This applied to contracts for which tenders were invited on or after 1 May 2006. Regarding contracts for which tenders were invited before 1 May 2006, the HD's prior consent was required for the sub-contracting services. Most of the contracts tendered before 1 May 2006 had expired and when the PSAs/contractors tendered for new contracts, they would have to appoint sub-contractors from the Lists and obtain the HD's prior approval. Since the implementation of the requirement, no further irregularity had been identified.

32. The Committee further enquired about the criteria for admission to and removal from the Lists of PSAs/Contractors. The **Deputy Director of Housing (Estate Management)** replied that the HD would take into account the sub-contractors' financial situation, past experience and performance records when considering admission to the Lists. If the financial situation of the sub-contractors worsened or their performance deteriorated, they could be removed from the Lists or be downgraded.

33. The Committee noted from paragraph 3.32 of the Audit Report that in five of the eight PSA contracts examined by Audit, the amounts of performance bonds provided by PSAs were at variance with the contract requirements, ranging from a shortfall of \$2 million to an excess of \$500,000. The Committee asked why the amounts of the bonds were not equal to 5% of the value of the contracts as stated in the tender document. The **Director of Housing** explained that sometimes changes in the contract scope before tendering would result in deviation from the usual value of 5% of the contract sum. The HD would closely follow up with the PSAs concerned to ask them to make up for the shortfall as soon as possible.

34. According to paragraph 3.35 of the Audit Report, some PSAs took out insurance after the commencement of contracts, which put the PSAs (and the HA) at risk. The Committee asked why the HD allowed such situation to occur. The **Deputy Director of Housing (Estate Management)** said that the type of insurance in question was not public liability insurance. The insurance policies were mainly money and fidelity guarantee insurance policies to cover the performance risks of PSAs in taking up HA contracts. The HA would ensure that PSAs possessed valid insurance policies before commencement of contracts.

#### **D. Monitoring of the performance of PSAs**

35. According to paragraph 4.20 of the Audit Report, the HD's Administration Guidelines stipulated that the monitoring teams of the Property Service Administration Units (PSAUs) were expected to carry out at least one surprise check for each PSA-managed estate each month. However, Table 7 in paragraph 4.23 revealed that in

two estates, surprise checks had not been carried out as frequently as required. The Committee asked why the required frequency of checks could not be achieved.

36. The **Deputy Director of Housing (Estate Management)** explained that the surprise checks covered three disciplines, namely estate management, building works and building services. As shown in Table 7, the required frequency had been achieved for either one or two of the three disciplines for the two estates. The extent of not achieving the required frequency ranged from 8% to 25%. Apart from conducting surprise checks, the HD staff obtained a good understanding of the PSAs' performance through regular meetings with PSAs, members of the Estate Management Advisory Committee (EMAC) and tenants.

37. According to paragraph 4.32 of the Audit Report, members of the EMAC had to complete questionnaires for the purpose of evaluating the performance of the PSAs. The Administration Guidelines stipulated that in completing the questionnaires, each EMAC member was required to declare any conflict of interest he might have with the PSA. However, as revealed in paragraph 4.33(c) of the Audit Report, in all eight estates examined by Audit, many EMAC members did not indicate on the declaration forms whether they had any conflict of interest with the PSAs. The Committee asked:

- why the Administration Guidelines concerning declaration of interest were not followed; and
- how the HD could ensure that there was in fact no conflict of interest between the EMAC member and the PSA if no such indication was made on the declaration form.

38. In response, the **Director of Housing** and the **Deputy Director of Housing (Estate Management)** said that:

- the meetings of EMAC were usually held after office hours with a tight schedule. Despite this, the HD staff conducting the meeting would strive to ensure that members of the EMAC followed the Administration Guidelines and evaluated the performance of PSAs in a fair and open manner. In fact, clearer guidelines on how to properly complete the questionnaires had been issued to the HD staff. According to the revised guidelines, assessment forms filled in with pencil, without declaration or without signature by the EMAC members would be invalidated; and
- if there was no indication of conflict of interest on the declaration form, the HD had no idea whether there was such conflict between the EMAC member and the PSA. In any case, the assessment form without declaration would be disregarded. If a member intentionally provided false information, the HD

might consider taking more rigorous action. The HD had in the past cooperated with the Police to conduct further investigation for suspected fraudulent cases. The HD would make sure that members were informed of the possible consequence of providing false information.

39. According to paragraph 4.41 of the Audit Report, PSAs might be discouraged from reporting hawking activities to the PSAUs, fearing that it might affect their performance rating, or that the HD would take cost-recovery action. The Committee asked:

- whether any regulatory action would be taken against the PSAs if they failed to report illegal hawking activities; and
- how the HD would ensure that PSAs were not discouraged from reporting hawking activities.

40. In reply, the **Deputy Director of Housing (Estate Management)** said that:

- in reality, the chance of PSAs not reporting hawking activities was slim as there were many residents living in PRH estates who would report such activities to the HD from time to time. Moreover, according to the modality plan for inter-departmental collaboration as specified in the “Report on Measures to Improve Environmental Hygiene in Hong Kong” published by Team Clean in August 2003, for a blackspot having 10 or more illegal cooked food hawker stalls in operation, joint departmental raiding operations by the HD, the Food and Environmental Hygiene Department and the Police would be mounted. For a blackspot having five to nine such hawker stalls, the HD’s Mobile Operations Unit (MOU) would be deployed to conduct surprise raids and intensive patrols. For a blackspot having less than five illegal hawkers, local management staff, including PSAs, would be responsible for handling the problem. Since the implementation of this plan, the number of hawker blackspots in PRH estates had reduced significantly. As the PSAs were required to inform the HD of any hawking activities within the estate, failing to do so might result in warnings given by the HD; and
- having considered the various problems relating to the practice of recovering the costs of anti-hawking operations from the PSAs, the HD had discontinued this practice.

41. The Committee noted that although PSAs were required to take effective actions to keep an estate free from hawkers and to clear hawkers in the vicinity of the estate, these actions were not always effective. This was clearly demonstrated in Case 7 in paragraph 4.44 of the Audit Report, in which the hawkers always left the spot for a short while and

returned when PSA staff were not present. The Committee also noted that unlike the HD staff, PSA staff were not empowered by law to take enforcement actions against illegal hawking activities in estates. Therefore, in estates with less than five hawkers, the problem of illegal hawking resurfaced time and again. The Committee asked how the HD could effectively address this problem, and whether it would consider deploying more HD staff to take enforcement actions against illegal hawking activities, or even taking over such work from the PSAs.

42. The **Director of Housing** replied that:

- illegal hawking was a complicated problem, particularly in an estate managed by different parties. In locations with serious hawking problems, the HD would deploy MOU staff to carry out anti-hawking operations. However, there were almost 200 PRH estates and the manpower of the MOU, with some 200 staff, was tight; and
- the HD was aware that PSA staff did not have the legal power to take enforcement actions, such as arrests and seizures, against illegal hawking in estates. The PSA staff were thus not effective in combating illegal hawking activities. The HD had requested the EU to conduct a comprehensive study to review the types of estate management work, including taking enforcement actions against illegal hawking activities, which should be handled by HD staff instead of PSA staff. Having regard to the results of the study, which would be available by April 2008, the HD would review the overall manpower requirements with a view to effectively addressing the problem of illegal hawking.

#### **E. Performance management and contingency planning**

43. The Committee noted from the presentation made by the Deputy Director of Housing (Estate Management) at the beginning of the public hearing that providing quality estate management services, achieving customer satisfaction and maintaining cost effectiveness were the missions of the HD for outsourcing the management of PRH estates. The Committee asked whether the HD had met these objectives.

44. The **Director of Housing** and the **Deputy Director of Housing (Estate Management)** responded that:

- the quality of estate management services could best be reflected in the satisfaction level of tenants. According to the results of customer satisfaction surveys, 68% of the households indicated in 2007 that they were “very satisfied/satisfied” with the service quality of estate management officers, compared to 61% in 2005. Those “very satisfied/satisfied” with the

quality of security services had increased from 69% in 2005 to 76% in 2007. The satisfaction level on cleanliness and hygienic conditions had also improved. Moreover, the result of the customer satisfaction survey for the HD's Total Maintenance Scheme recorded an overall satisfaction rate of 88.5% in 2007; and

- as to cost-effectiveness, according to the EU's examination in 2006 of more recent outsourced contracts, the overall cost saving achieved by the HD from the PSA model was 18% as compared with the in-house model.

45. According to Audit's observation in paragraph 5.13 of the Audit Report, the HD did not have a contingency plan to cope with a sudden termination of a PSA contract. The Committee asked whether a contingency plan had been in place to avoid service disruptions. The **Deputy Director of Housing (Estate Management)** said that current PSA contracts had included provisions to allow PSAs to provide services at a location outside the estates they managed under the contracts. The HD maintained a contingency mechanism by issuing instructions to serving PSAs of other contracts to take over the work of underperforming PSAs in case of need. For cleansing and security service contractors, the HD had a "standby contractor" arrangement to take over the required service with short notice. As this arrangement was applicable to HD directly-managed estates only, the HD would consider extending such arrangement to PSA-managed estates where appropriate.

46. The Committee further enquired whether asking other PSAs to take over the work of underperforming PSAs would compromise the quality of estate management services. The **Deputy Director of Housing (Estate Management)** said that usually one month's notice was required for terminating a PSA's contract. As such, the PSA requested by the HD to take over the work would have time to make proper arrangement, such as employing new staff or deploying existing staff under other contracts managed by it to take up the additional work. In exceptional circumstances, the tendering process could be expedited to facilitate the early award of replacement contract.

47. Noting from paragraph 5.17(b) of the Audit Report that the EU had been asked to arrange a consultancy study for the HD to review the adequacy of existing contingency measures, the Committee asked about the progress of the study. The **Director of Housing** said that the study had commenced and the results would be available by April 2008.



## **F. Conclusions and recommendations**

48. The Committee:

### Protection of non-skilled workers engaged in outsourcing contracts

- notes that although the Housing Department (HD) is not obliged to follow the Government Financial Circulars, it had largely followed the Government's labour protection requirements, including the adoption of the Government's Demerit Point System (DPS) and standard employment contract;
- expresses dismay and finds its unacceptable that:
  - (a) the HD had adopted a lenient approach in the management of property services agents (PSAs)/contractors, with HD staff not taking regulatory actions against the defaulted PSAs/contractors if the irregularities were not committed wilfully;
  - (b) Audit's case studies showed that there were instances where HD staff had not adequately followed up those cases with suspected employment-related irregularities and had not taken effective regulatory actions against the defaulted PSAs/contractors;
  - (c) in respect of the 117 cases identified by the HD with irregularities established, no default notices (DNs) had been issued, and that the HD had neither applied the "batch-payment adjustment" nor issued any adverse performance reports to the PSAs/contractors;
  - (d) the Housing Authority (HA)'s procurement policy of removal of a defaulted contractor (with employment-related conviction or three or more demerit points under the DPS) from the HA Lists of PSAs/Contractors for "a maximum of five years" is not entirely consistent with the Government's requirement that tender offers submitted by a tenderer with similar conviction/demerit point records will not be considered for "a period of five years"; and
  - (e) two months after the HD had suspended a PSA convicted of contravening the Employees' Compensation Ordinance from tendering, the HA renewed in January 2007 an outsourcing contract with the convicted PSA for managing a Home Ownership Scheme estate and that under the renewed contract, there was no requirement for the PSA to adopt the Government's standard employment contract for employing non-skilled workers;

- notes that:
  - (a) the HD has issued guidelines to implement a hardline approach towards employment-related irregularities committed by PSAs/contractors;
  - (b) the HD will refer cases involving possible violation of employment-related ordinances to the relevant law enforcement agencies for necessary action, irrespective of whether authorisation from the employees concerned has been given;
  - (c) the HD had set up the Central Monitoring Team (CMT) which produced very useful findings from their inspections and identified over a two-year period 63 cases among which 227 employment-related irregularities were found;
  - (d) the Director of Housing brought to the attention of the HA's Tender Committee (TC) the Government's five-year suspension requirement at the TC's meeting held on 13 December 2007, and the TC agreed that the HA should further discuss the issue with the Financial Services and the Treasury Bureau (FSTB) before making a decision; and
  - (e) the renewed contract was intended to be a stop-gap arrangement and the HD had terminated the renewed contract with the PSA;
- expresses serious concern that the statistical information reported by the CMT provided the HD management with indicators of CMT workload only, but did not help management assess the effectiveness of the HD measures to protect non-skilled workers;
- notes that the Director of Housing has implemented the audit recommendations referred to in paragraphs 2.26, 2.43 and 2.47 of the Director of Audit's Report (Audit Report);

#### Procurement of services and contract administration

- finds it unacceptable that:
  - (a) the various regulatory actions adopted by the HD might not be able to provide sufficient deterrent effect, especially on those PSAs whose workload had almost reached the List Capping Limit or who had no intention to bid for new contracts;
  - (b) the HD did not include, as an assessment criterion, the number of DN's (with or without demerit points given) in its scoring scheme for PSA tender evaluation;

- (c) some PSAs sought approvals after the commencement of the sub-contracting services and some did not seek the HD's approval for the sub-contracting services; and
- (d) there were PSA contracts with performance bonds which were at variance with the contract requirements, as well as contracts where insurance was taken out after the commencement of the contracts;
- notes that the Director of Housing:
  - (a) has implemented the audit recommendations referred to in paragraphs 3.14(a), 3.28 and 3.41(a) to (d) of the Audit Report; and
  - (b) will implement the audit recommendations referred to in paragraphs 3.14(b), 3.21 and 3.41(e) of the Audit Report;

Monitoring of the performance of property services agents

- expresses dismay and finds it unacceptable that:
  - (a) some monitoring teams of the Property Service Administration Units (PSAUs) did not make an appropriate assessment of PSA performance on the enforcement of the Tenant Marking Scheme;
  - (b) many monitoring teams did not prepare surprise check plans beforehand to focus on the areas for inspection and the surprise checks for some estates were not carried out as frequently as required;
  - (c) there were inconsistencies in the reporting of results of monthly inspections and surprise checks among the monitoring teams;
  - (d) the HD did not have any guidelines on the requirements for supervisory checks to be conducted on the monitoring teams' work;
  - (e) some PSAs did not report to the PSAUs the hawking activities in their estates and the HD did not have a central record of the hawking activities in all PSA-managed estates to facilitate its monitoring of the hawker problem; and
  - (f) since PSA staff do not have the legal powers to take enforcement actions against illegal hawking activities, they are not always effective in tackling the hawker problem;

- notes that the Director of Housing:
  - (a) has requested the Efficiency Unit (EU) to conduct a study to review the types of estate management work, including taking enforcement actions against illegal hawking activities, which should be handled by HD staff instead of PSA staff, and the results of the study will be available by April 2008;
  - (b) has implemented the audit recommendations referred to in paragraphs 4.18, 4.26, 4.30, 4.34 and 4.51(e) of the Audit Report; and
  - (c) will implement the audit recommendation referred to in paragraph 4.51(a) to (d) of the Audit Report;
- recommends that the Director of Housing should, having regard to the results of the study conducted by the EU, expeditiously take effective actions to address the hawker control problem, including considering whether HD staff instead of PSA staff should be deployed to take enforcement actions against illegal hawking activities;

#### Performance management and contingency planning

- expresses serious concern that the HD did not have a contingency plan to cope with a sudden termination of a PSA contract;
- notes that the Director of Housing:
  - (a) has requested the EU to review the adequacy of existing contingency measures so as to avoid any possible service disruption, and the results of the study will be available by April 2008;
  - (b) has implemented the audit recommendation referred to in paragraph 5.10 of the Audit Report; and
  - (c) will implement the audit recommendations referred to in paragraphs 5.6 and 5.16 of the Audit Report; and

#### Follow-up action

- wishes to be kept informed of:
  - (a) the result of HA's discussion with the FSTB regarding the five-year suspension requirement and the TC's decision on this issue;
  - (b) the progress made by the HD in tackling the hawker control problem;

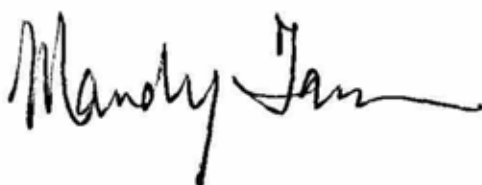
- (c) the progress made by the HD in reviewing the adequacy of existing contingency measures; and
- (d) any further developments and progress made in implementing the various audit recommendations.

SIGNATURES OF THE CHAIRMAN,  
DEPUTY CHAIRMAN AND MEMBERS OF THE COMMITTEE

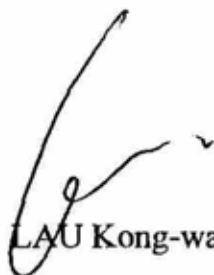
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Philip WONG Yu-hong  
(Chairman)



TAM Heung-man  
(Deputy Chairman)



LAU Kong-wah



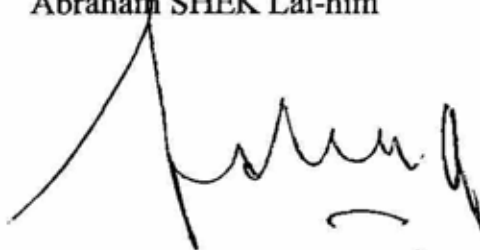
Andrew CHENG Kar-foo



Abraham SHEK Lai-him



Jeffrey LAM Kin-fung



Albert Jinghan CHENG

30 January 2008

**CHAPTERS IN THE DIRECTOR OF AUDIT'S REPORT NO. 49  
DEALT WITH IN THE PUBLIC ACCOUNTS COMMITTEE'S REPORT**

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**Director of  
Audit's Report  
No. 49**

**P.A.C.  
Report No. 49**

<u><b>Chapter</b></u>	<u><b>Subject</b></u>	<u><b>Chapter</b></u>
5	Hong Kong Tourism Board: Corporate governance and administrative issues	1
6	Hong Kong Tourism Board: Planning, execution and evaluation of marketing activities	2
10	Outsourcing of the management of public rental housing estates	3

**RULES OF PROCEDURE OF  
THE LEGISLATIVE COUNCIL OF  
THE HONG KONG SPECIAL ADMINISTRATIVE REGION**

**72. Public Accounts Committee**

(1) There shall be a standing committee, to be called the Public Accounts Committee, to consider reports of the Director of Audit –

- (a) on the accounts of the Government;
- (b) on such other accounts required to be laid before the Council as the committee may think fit; and
- (c) on any matter incidental to the performance of his duties or the exercise of his powers as the committee may think fit.

(2) The committee shall also consider any report of the Director of Audit laid on the Table of the Council which deals with examinations (value for money audit) carried out by the Director relating to the economy, efficiency and effectiveness of any Government department or public body or any organization to which his functions as Director of Audit extend by virtue of any Ordinance or which receives public moneys by way of subvention.

(3) The committee shall consist of a chairman, deputy chairman and 5 members who shall be Members appointed by the President in accordance with an election procedure determined by the House Committee. *(L.N. 214 of 2005)*

(3A) The chairman and 2 other members shall constitute a quorum of the committee. *(L.N. 214 of 2005)*

(3B) In the event of the temporary absence of the chairman and deputy chairman, the committee may elect a chairman to act during such absence. *(L.N. 214 of 2005)*

(3C) All matters before the committee shall be decided by a majority of the members voting. Neither the chairman nor any other member presiding shall vote, unless the votes of the other members are equally divided, in which case he shall give a casting vote. *(L.N. 214 of 2005)*

(4) A report mentioned in subrules (1) and (2) shall be deemed to have been referred by the Council to the committee when it is laid on the Table of the Council.



(5) Unless the chairman otherwise orders, members of the press and of the public shall be admitted as spectators at meetings of the committee attended by any person invited by the committee under subrule (8).

(6) The committee shall meet at the time and the place determined by the chairman. Written notice of every meeting shall be given to the members and to any person invited to attend a meeting at least 5 clear days before the day of the meeting but shorter notice may be given in any case where the chairman so directs.

(7) *(Repealed L.N. 214 of 2005)*

(8) The chairman or the committee may invite any public officer, or, in the case of a report on the accounts of or relating to a non-government body or organization, any member or employee of that body or organization, to give information or any explanation or to produce any records or documents which the committee may require in the performance of its duties; and the committee may also invite any other person to assist the committee in relation to any such information, explanation, records or documents.

(9) The committee shall make their report upon the report of the Director of Audit on the accounts of the Government within 3 months (or such longer period as may be determined under section 12 of the Audit Ordinance (Cap. 122)) of the date on which the Director's report is laid on the Table of the Council.

(10) The committee shall make their report upon the report of the Director of Audit mentioned in subrule (2) within 3 months (or such longer period as may be determined by the Council) of the date on which the Director's report is laid on the Table of the Council.

(11) Subject to these Rules of Procedure, the practice and procedure of the committee shall be determined by the committee.

**Paper presented to the Provisional Legislative Council  
by the Chairman of the Public Accounts Committee  
at the meeting on 11 February 1998 on  
Scope of Government Audit in the  
Hong Kong Special Administrative Region -  
'Value for Money Audits'**

**SCOPE OF WORK**

1. The Director of Audit may carry out examinations into the economy, efficiency and effectiveness with which any bureau, department, agency, other public body, public office, or audited organisation has discharged its functions.
2. The term "audited organisation" shall include -
  - (i) any person, body corporate or other body whose accounts the Director of Audit is empowered under any Ordinance to audit;
  - (ii) any organisation which receives more than half its income from public moneys (this should not preclude the Director from carrying out similar examinations in any organisation which receives less than half its income from public moneys by virtue of an agreement made as a condition of subvention); and
  - (iii) any organisation the accounts and records of which the Director is authorised in writing by the Chief Executive to audit in the public interest under section 15 of the Audit Ordinance (Cap. 122).
3. This definition of scope of work shall not be construed as entitling the Director of Audit to question the merits of the policy objectives of any bureau, department, agency, other public body, public office, or audited organisation in respect of which an examination is being carried out or, subject to the following Guidelines, the methods by which such policy objectives have been sought, but he may question the economy, efficiency and effectiveness of the means used to achieve them.

## GUIDELINES

4. The Director of Audit should have great freedom in presenting his reports to the Legislative Council. He may draw attention to any circumstance which comes to his knowledge in the course of audit, and point out its financial implications. Subject to these Guidelines, he will not comment on policy decisions of the Executive Council and the Legislative Council, save from the point of view of their effect on the public purse.

5. In the event that the Director of Audit, during the course of carrying out an examination into the implementation of policy objectives, reasonably believes that at the time policy objectives were set and decisions made there may have been a lack of sufficient, relevant and reliable financial and other data available upon which to set such policy objectives or to make such decisions, and that critical underlying assumptions may not have been made explicit, he may carry out an investigation as to whether that belief is well founded. If it appears to be so, he should bring the matter to the attention of the Legislative Council with a view to further inquiry by the Public Accounts Committee. As such an investigation may involve consideration of the methods by which policy objectives have been sought, the Director should, in his report to the Legislative Council on the matter in question, not make any judgement on the issue, but rather present facts upon which the Public Accounts Committee may make inquiry.

6. The Director of Audit may also -

- (i) consider as to whether policy objectives have been determined, and policy decisions taken, with appropriate authority;
- (ii) consider whether there are satisfactory arrangements for considering alternative options in the implementation of policy, including the identification, selection and evaluation of such options;
- (iii) consider as to whether established policy aims and objectives have been clearly set out; whether subsequent decisions on the implementation of policy are consistent with the approved aims and objectives, and have been taken with proper authority at the appropriate level; and whether the resultant instructions to staff accord with the approved policy aims and decisions and are clearly understood by those concerned;

- (iv) consider as to whether there is conflict or potential conflict between different policy aims or objectives, or between the means chosen to implement them;
- (v) consider how far, and how effectively, policy aims and objectives have been translated into operational targets and measures of performance and whether the costs of alternative levels of service and other relevant factors have been considered, and are reviewed as costs change; and
- (vi) be entitled to exercise the powers given to him under section 9 of the Audit Ordinance (Cap. 122).

## **PROCEDURES**

7. The Director of Audit shall report his findings on value for money audits in the Legislative Council twice each year. The first report shall be submitted to the President of the Legislative Council within seven months of the end of the financial year, or such longer period as the Chief Executive may determine. Within one month, or such longer period as the President may determine, copies shall be laid before the Legislative Council. The second report shall be submitted to the President of the Legislative Council by the 7th of April each year, or such date as the Chief Executive may determine. By the 30th April, or such date as the President may determine, copies shall be laid before the Legislative Council.

8. The Director's report shall be referred to the Public Accounts Committee for consideration when it is laid on the table of the Legislative Council. The Public Accounts Committee shall follow the rules governing the procedures of the Legislative Council in considering the Director's reports.

9. A Government minute commenting on the action Government proposes to take in respect of the Public Accounts Committee's report shall be laid on the table of the Legislative Council within three months of the laying of the report of the Committee to which it relates.

10. In this paper, reference to the Legislative Council shall, during the existence of the Provisional Legislative Council, be construed as the Provisional Legislative Council.

香港特別行政區政府  
政務司司長辦公室



CHIEF SECRETARY  
FOR ADMINISTRATION'S OFFICE  
Government of the Hong Kong  
Special Administrative Region

7 June 2007

Dr the Hon Philip WONG Yu-hong, GBS  
Chairman, Public Accounts Committee  
Legislative Council  
Legislative Council Building  
8 Jackson Road  
Central

*Dear Philip,*

**Follow-up to Public Accounts Committee Report No. 39**

**Small house grants in the New Territories**

Thank you for your letter of 31 May 2007 on the above subject.

The Small House Policy was introduced in 1972 which was the time when about 60% of the buildings in the rural New Territories were temporary or unlawful houses, clearly manifesting an urgent need for a policy to practically improve the rural housing environment. The Small House Policy was designed to provide the catalyst to improve rural housing standard by encouraging the construction of better village houses, and to preserve the cohesion of indigenous communities.

With change of time, we have witnessed a facelift of the rural setting. Keeping pace with the speed of urbanization and the tide of new town developments, the differences between the rural New Territories and other parts of Hong Kong have increasingly narrowed. The application of the Small House Policy in the context of changing land-use planning and against the objective of optimization of land resources has given rise to new issues. The decision made by the Secretary for the Housing, Planning and Lands (SHPL) in 2002-03 to review the Small House Policy and related issues in a comprehensive manner was timely, and his aspiration to resolve the associated problems once and for all during the tenure of his office was laudable.

To take forward this comprehensive review, an Inter-departmental Steering Committee has been set up under the Housing, Planning and Lands Bureau (HPLB) to critically and carefully examine a wide range of issues relating to the Policy. These issues include legal and human rights implications, the sustainability issue, land-use problems, environmental impacts and other practical and resources considerations. All these are complex issues with far-reaching implications, and none of them lend themselves to simple and easy solutions.

We note that SHPL and his colleagues in HPLB have regularly provided progress reports on the Small House Policy review to the Public Accounts Committee (PAC) and also to the Panel on Planning, Lands and Works. Close liaison in furtherance of shared objectives of improving rural housing standard, and without prejudicing the interest of the community at large, was pursued with the Heung Yee Kuk (HYK). A number of proposals have been formulated and, after consultation with the HYK, been put into implementation. Some examples are promulgation of a new set of procedures to streamline the processing of Small House applications thereby expediting the processing of the applications by the Lands Department; stipulation in the lease conditions of a Small House grant that no prior arrangement for transfer or disposal of the applicant's beneficial interest is allowed; and implementation of a set of new fire safety requirements under which fire safety alternatives would be accepted for Small House applications with practical constraints meeting the original Emergency Vehicular Access requirements.

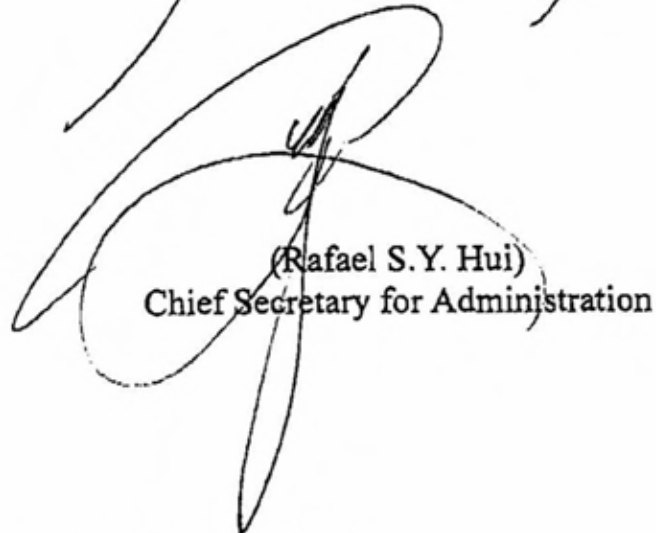
The PAC has also been kept abreast of the progress of the other initiatives taken by the Inter-departmental Steering Committee. Two projects are currently under discussion with the HYK, namely, formulation of a set of procedures to expedite and standardize the process of resolving objections to Small House applications; and the introduction of a rationalisation scheme of Unauthorised Building Works in the New Territories Exempted Houses which include, among others, Small Houses. The PAC is also aware that the Inter-departmental Steering Committee has been devoting considerable effort to explore whether the development intensity of the Village Expansion Areas could be increased by allowing for multi-storey development, albeit that this remains an internal desk-top exercise at this stage.

It is clear that SHPL has pursued his review of the Small House Policy and related issues over the past four years with vigour and tact. The agenda for the review has been comprehensive and the scope extensive. This comprehensive review has also been marked by its transparent process. Due weightings have been given to equitable treatment of the stakeholders, delicately balancing against the interest of the community at large. A number of improvement measures have been implemented, and considerable progress has been made on some new fronts.

We note that SHPL has set for himself a bold target to resolve the associated problems within the tenure of his current office. However, the complexity of the remaining issues surrounding the comprehensive review and the wide range of considerations that have to be weighed in the deliberation process are such that the exercise is necessarily time-consuming. We have to accept that realistically the review of the Small House Policy will have to continue beyond SHPL's current tenure. In other words, work on this very important and complex issue will not cease with the end of his tenure.

I wish to take the opportunity to thank you and Members of the PAC for your interest and comments on this subject.

*Yours sincerely*

A large, stylized handwritten signature in black ink, consisting of several loops and a long vertical stroke at the bottom.

(Rafael S.Y. Hui)  
Chief Secretary for Administration

c.c. Secretary for Housing, Planning and Lands  
Secretary for Financial Services and the Treasury  
Director of Audit



**Corporate governance and Headquarters administration of the English Schools Foundation**

**Action plan of the English Schools Foundation in response to the Report of the Public Accounts Committee as at September 2007**

	<b>Recommendations of PAC</b>	<b>Response from the ESF to PAC</b>	<b>Action plan as prepared in May 2005</b>	<b>Responsible party</b>	<b>Forecast completion/comments (Position as at September 2007)</b>
1.	<b>Corporate governance</b>				
	b. To adopt measures to ensure that external members would constitute a majority at each of the respective meetings of the Foundation and ExCom;	This was agreed and had formed the basis of the work of the Governance Reform Task Force.	Agreed in principle by Foundation Meeting on 9 December 2004.		Review of Governance: majority of external members would be required at Board Meetings and ExCom would be abolished under The English Schools Foundation (Amendment) Bill 2007.
	c. To issue reminders to the related organisations if the attendance rates of their representatives at Foundation meetings were low;	Agreed: reminder would be issued before Foundation meetings.	By June 2005.		Review of Governance: members with low attendance rates would be deemed to have resigned under the new Regulation to be made.
	d. To amend the Regulations of the ESF to the effect that ESF staff members of ExCom would abstain from voting on matters concerning ESF staff benefits at its meetings; and	To be considered by the Governance Reform Task Force.	Governance Reform Task Force to consider (b), (d) and (e) by April 2005 and to publish a consultation paper by May 2005. Foundation to consider the reform in June 2005.	ExCom	Review of Governance: board members would be required to declare any interest and not to vote on a matter in which they were direct beneficiaries under a Code of Conduct to be drawn up under the new Regulation.  New Remuneration and Terms and Conditions Committee would not have staff members under the new Regulation. Pending that, no staff members had been appointed to the current Conditions of Service Committees established in January 2007.

(Cont'd)

	Recommendations of PAC	Response from the ESF to PAC	Action plan as prepared in May 2005	Responsible party	Forecast completion/comments (Position as at September 2007)
	e. To consider repealing Section 10(2) of The English Schools Foundation Ordinance so that subsidiary legislation in the form of regulations made under the Ordinance was required to be published in the Gazette and tabled in LegCo.	To be considered by the Governance Reform Task Force.			Section 10(2) of The English Schools Foundation Ordinance would be repealed under The English Schools Foundation (Amendment) Bill 2007. Future Regulations would have to be presented to LegCo.
3.	<b>Staff remuneration and recruitment</b>  b. The membership of the Remuneration Study Group (RSG) should not be drawn from the ESF's own teaching and non-teaching staff.	The ESF had stated that the RSG's membership was agreed by ExCom and reflected the need for transparency for all stakeholders. ExCom would decide on pay levels.		ExCom	Membership of the new Remuneration Committee would be made independent of the teaching and non-teaching staff, as would be specified in the new Regulation.
4.	<b>Staff housing and medical benefits</b>  c. The ESF should formulate a policy and a plan for disposing of its surplus staff quarters.	The ESF had stated that ExCom would review carefully the audit recommendation in paragraph 5.31(a), having regard to the long-term needs of the ESF and the financial security conferred by the ownership of such fixed assets.	To submit a paper in respect of audit recommendations in paragraph 5.31(a) and (b) to ExCom by June 2005.	ExCom	The review of housing policy and property holdings had begun under the guidance of the Remuneration and Terms and Conditions of Service Committee and Finance Committee, which were composed similarly as the new committees to be established under The English Schools Foundation (Amendment) Bill 2007.

**Witnesses who appeared before the Committee  
(in order of appearance)**

Mr CHAN Chun-yuen, JP	Director of Housing
Mr LAU Kai-hung, JP	Deputy Director of Housing (Estate Management)
Mr CHIU Kin-chee	Chief Manager/ Management (Support Services) <sup>1</sup> , Housing Department
Mr LEE Kang-sum	Chief Manager/ Management (Support Services) <sup>3</sup> , Housing Department

**Introductory Remarks by  
Chairman of the Public Accounts Committee,  
Dr Hon Philip WONG Yu-hong, GBS,  
at the Public Hearing of the Committee  
on Monday, 10 December 2007**

Good morning, ladies and gentlemen. Welcome to the Public Accounts Committee's public hearing relating to Report No. 49 of the Director of Audit on the results of value for money audits, which was tabled in the Legislative Council on 28 November 2007.

2. The Public Accounts Committee is a standing committee of the Legislative Council. It plays the role of a watchdog over public expenditure through consideration of the reports of the Director of Audit laid before the Council on the Government's accounts and the results of value for money audits of the Government and those organisations which receive funding from the Government. The consideration by the Committee of the Director's reports involves gathering evidence relevant to the facts contained in the Director's reports, so that the Committee may draw conclusions and make recommendations in a constructive spirit and forward-looking manner. I also wish to stress that the objective of the whole exercise is such that the lessons learned from past experience and our comments on the performance of the public officers or other personnel concerned will enable the Government to improve its control over the expenditure of public funds, with due regard to economy, efficiency and effectiveness.

3. The consideration of the Director's reports follows an established process of public hearings where necessary, internal deliberations and publication of the Committee's report. The Committee has an established procedure for ensuring that the parties concerned have a reasonable opportunity to be heard. After the Committee is satisfied that it has ascertained the relevant facts, it will proceed to form its views on those facts, followed by a process of formulating its conclusions and recommendations to be included in its report. In accordance with Rule 72 of the Rules of Procedure of the Legislative Council, the Committee is required to make its report on the Director's report to the Legislative Council within three months of the date at which the Director's report is laid on the Table of the Council. Before then, we will not, as a committee or individually, be making any public comments.

4. Following a preliminary study of Report No. 49, the Committee has decided, in respect of three chapters in the Report, to invite the relevant public officers and other personnel concerned to appear before the Committee and answer our questions. We have, apart from this morning's hearing, also set aside 13 December 2007 for public hearings on the other chapters.

5. I should like to mention here that the Director of Audit's Report is not released into the public domain until it is tabled in the Council. However, it has come to the Committee's attention that prior to Report No. 49 was tabled, there has been a large amount of media coverage of the matters dealt with in the Report, some of which contained details identical or similar to those depicted in the Report. The Committee is dismayed that there were these leakages.

6. The public hearing this morning is on Chapter 10 of Report No. 49 on the subject of "Outsourcing of the management of public rental housing estates". Apart from Chapter 10, there are two other chapters in Report No. 49 which deal with government outsourcing. Chapter 8 covers the outsourcing of environmental hygiene services and Chapter 9 the outsourcing of services in the Leisure and Cultural Services Department. The Committee understands that whilst the three departments each have problems unique to themselves in the management of outsourcing activities, there are also a lot of problems common to them. The Committee has selected Chapter 10 for public hearing because, among the three departments, the Housing Department has engaged the greatest number of workers under its outsourcing contracts, the contract value is the highest, and the number of sub-contractors appointed is also the largest. In addition, it also has the greatest number of cases with employment-related irregularities.

7. The witnesses this morning are: Mr CHAN Chun-yuen (Director of Housing), Mr LAU Kai-hung (Deputy Director of Housing (Estate Management)), Mr CHIU Kin-chee (Chief Manager/ Management (Support Services)) and Mr LEE Kang-sum (Chief Manager/ Management (Support Services)).

8. I now proceed to the public hearing.

## Director of Audit's Report No. 49

### Chapter 10 – Housing Department's Outsourcing of the Management of Public Rental Housing Estates



## Introduction

### Mission

- To provide quality estate management services
- To maintain cost-effectiveness
- To achieve customer satisfaction
- To safeguard the rights of non-skilled workers

# Background

Housing Department (HD)'s Outsourcing Service Contracts include Cleansing Service Contracts, Security Service Contracts and Property Service Agent (PSA) Contracts. As at 30 April 2007, HD has awarded 188 outsourcing service contracts to PSAs/Contractors employing 13 700 non-skilled workers.

Type	No. of Contracts	No. of Workers Employed
Cleansing Service Contracts	72	2 429
Security Service Contracts	75	2 971
Property Service Agent's Contracts	41	8 300
<b>Total :</b>	<b>188</b>	<b>13 700</b>

3

## Partnering Relationship with Contractors

- According to the guidelines issued by the Efficiency Unit, managing a successful outsourcing relationship will require the adoption of a partnership approach with the contractors to attain a 'win-win' situation.
- Crucial points to achieve successful partnering are :
  - Common objectives;
  - Best value for money;
  - A long-term relationship;
  - Mutual trust/cooperation;
  - Mutually agreed requirements;
  - Early integrated planning; and
  - Dual communication.

4

## Measures to Protect Non-skilled Workers

Since May 2004, HD has implemented the following measures :

- (a) Tender Evaluation
- (b) Contractor List Management
- (c) Contract Requirements
- (d) Contract Enforcement and Supervision
- (e) Setting up of a Central Monitoring Team
- (f) Education and Publicity

5

### (a) Tender Evaluation

Tenders submitted by contractors with the following track record(s) will not be considered:

- Record of One Conviction
  - Employment Ordinance
  - Employees' Compensation Ordinance
  - Immigration Ordinance
  - Mandatory Provident Fund Scheme Ordinance
- Three Demerit Points Accumulated
  - Wage payment
  - Working hours
  - Failure to sign Standard Employment Contract
  - Failure to settle wage payment by auto-pay

6



## **(b) Contractor List Management**

- PSAs/Contractors will be removed from the HA list for a maximum of five years if they have a record of one or more convictions, or an aggregate of three or more demerit points over a 3-year rolling period.

7

## **(c) Contract Requirements**

- Wages offered must not be lower than the relevant average monthly wages published in the latest Census and Statistics Department's Quarterly Report of Wage and Payroll Statistics
- Salary statement to be duly signed by contractors and workers
- Wage payment by auto-pay
- If short payments are identified, the monthly fee will be deducted by the same percentage of the shortage
- The number of part-time workers is capped at no more than three-eighth of the total workforce for each cleansing contract

8

### **(c) Contract Requirements (Cont.)**

- Immediate termination of the service contract for record of one conviction or three demerit points obtained
- Sub-contractors will be removed if found convicted of an employment-related offence. The PSA's performance will also be rated as poor in the periodic assessment
- PSAs are required to choose sub-contractors from the list(s) approved by HD

9

### **(d) Contract Enforcement and Supervision**

- To check all employment contracts and monthly salary statements
- To launch regular and surprise checks
- To conduct random interviews with workers
- To issue Default Notice attracting demerit points
  - Wage payment
  - Working hours
  - Failure to sign Standard Employment Contract
  - Failure to settle wage payment by auto-pay

10

### **(e) Setting up of a Central Monitoring Team**

- Established in July 2005 to
  - check service contracts randomly
  - monitor service contractors' compliance with labour protection requirements
  - conduct in-depth investigations on complaints / referrals
  - liaise with Workers' Unions proactively for information and intelligence on labour exploitation

11

### **(f) Education & Publicity**

- To set up a 24-hour telephone hotline : 2712 0813
- To organize seminars with speakers from the Labour Department to enhance workers' awareness of their own rights
- To post up complaint hotline notice at workplaces and in common rooms of workers
- To deliver leaflets to workers
- To disseminate video-clips through Housing Channel

12

## **Employment-related Irregularities**

- Out of the 325 cases with suspected irregularities, 117 were established while the remaining were confirmed to have no irregularities after in-depth investigations
- Two cases were issued with Default Notices
- 17 cases were referred to law enforcement agencies for follow-up actions
- 65 cases were under Demerit Point System Contract while the remaining 52 cases were not

13

- Demerit Point System not applied on the following situations :
  - Miscalculation of overtime payment by using the calculation of deduction for absentee
  - Improper arrangement of leave
  - Late contribution of Mandatory Provident Fund/absence of contribution record
  - Collection of administration/uniform fee
  - Shortage of staff
  - No copies of salary statement/employment contract issued to workers

14

## Estate Hawker Problem

Enhanced enforcement actions against hawkers by joint departmental efforts since the setting up of the Team Clean in 2003

- For blackspots of more than 10 illegal hawkers in operation, joint departmental clearance operations by HD, Food and Environmental Hygiene Department and the Police will be mounted
- For blackspots of five to 10 illegal hawkers, the Mobile Operation Unit of HD will be deployed to conduct intensive patrol and surprise raids
- For blackspots of less than five illegal hawkers, local management staff including PSAs will be responsible for tackling the problem

Since the implementation of this modality plan in 2003, the number of hawker blackspots in public housing estates has been reduced significantly. HD will continue the monitoring of performance of PSAs to reduce hawking activities in accordance with the service contracts

15

## Tenants' Satisfaction Level on General Estate Management Services

Views on general estate management services	Households in public rental housing estates		
	2005	2006	2007
<b>Service quality of estate management officers</b>			
Very satisfied / satisfied	61.3%	62.4%	68.8%
Fair	33.6%	32.1%	26.5%
Dissatisfied / very dissatisfied	5.1%	5.5%	4.7%
<b>Quality of security services</b>			
Very satisfied / satisfied			
Fair	69.2%	71.6%	76.3%
Dissatisfied / very dissatisfied	26.4%	24.4%	20.4%
	4.4%	4.0%	3.3%
<b>Cleanliness and hygienic conditions of common area</b>			
Very satisfied / satisfied	64.3%	68.6%	71.0%
Fair	29.6%	27.0%	24.6%
Dissatisfied / very dissatisfied	6.1%	4.4%	4.4%

16

### **Audit Commission's Recommendations (40 Items)**

<b>Recommendation</b>	<b>No.</b>
Completed	28
In Progress	12
Total	40

17

# **Thank You**



18

## Audit Commission's Recommendation and Housing Department's Response

No.	Para. No.	Recommendations	Accepted	Follow-up Actions	
				Completed	In Progress
1	2.26(a)	To issue clearer guidelines on the Demerit Point System to HD staff	✓	✓	
2	2.26(b)	To review the adequacy of HD's regulatory actions on the employment-related irregularities committed by PSAs/contractors	✓	✓	
3	2.26(c)	To step up HD's regulatory actions against defaulted PSAs/contractors	✓	✓	
4	2.26(d)	To appoint the Central Monitoring Team (CMT) to oversee the follow-up actions	✓	✓	
5	2.26(e)	To document the regulatory actions taken and the comments of supervisors	✓	✓	
6	2.36(a)	To draw the Tender Committee's attention to the five-year suspension requirement proposed by the Financial Services and the Treasury Bureau	✓		✓
7	2.36(b)	To inform the relevant HA Committee about the renewal of contract with convicted PSA and work out actions to be taken in future	✓		✓
8	2.43	To share CMT's good practices with estate staff	✓	✓	
9	2.47	To set up procedures for regular reporting to facilitate monitoring	✓	✓	
10	3.14(a)	To take more rigorous regulatory actions against PSAs with persistently poor performance	✓	✓	
11	3.14(b)	To assess the risk of service disruption and make effective contingency plans in place	✓		✓
12	3.21	To make Default Notice an assessment criterion in tender evaluation	✓		✓
13	3.28(a)	To review the appointment of sub-contractors and rectify the identified irregularities	✓	✓	
14	3.28(b)	To step up monitoring of the appointment and performance of sub-contractors and enforce control procedures	✓	✓	
15	3.41(a)	To conduct a full check to ensure the performance bonds and insurance policies submitted by PSAs are in compliance with the requirements	✓	✓	
16	3.41(c)				
17	3.41(b)	To ensure the necessary insurance policies are procured by PSAs before the commencement of contracts	✓	✓	
18	3.41(d)	To issue guidelines on the vetting of performance bonds and insurance policies	✓	✓	
19	3.41(e)	To require PSAs to submit copies of employees' compensation insurance policies	✓		✓

20	4.18(a)	To ensure the assessment of PSAs' performance is in compliance with administration guidelines	✓	✓	
21	4.18(b)	To issue guidelines on reporting and documentation of monthly inspection	✓	✓	
22	4.18(c)	To step up monitoring of PSAs' enforcement of the Marking Scheme for Estate Management Enforcement in Public Housing Estates (Marking Scheme)	✓	✓	
23	4.18(d)	To make proper assessment of PSAs' performance in the enforcement of the Marking Scheme	✓	✓	
24	4.18(e)	To ascertain PSAs' difficulties in the enforcement of the Marking Scheme	✓	✓	
25	4.26(a)	To conduct surprise checks according to the frequency stipulated in the administration guidelines and prepare check plans for supervisors' prior approval	✓	✓	
26	4.26(b)				
27	4.26(c)	To stipulate the submission of surprise check reports and prepare non-fixed checking schedules	✓	✓	
28	4.26(d)				
29	4.30(a)	To issue guidelines on supervisory checks	✓	✓	
30	4.30(b)	To keep proper records of supervisory checks			
31	4.34	To tighten controls on PSAs' performance assessment by EMAC and proper completion of questionnaire	✓	✓	
32	4.51(a)	To timely report hawking activities in the estates managed by PSAs to HD	✓		✓
33	4.51(b)	To conduct independent spot checks to ensure the information reported by PSAs is accurate and complete	✓		✓
34	4.51(c)	To compile a central record of hawking activities in PSA-managed estates	✓		✓
35	4.51(d)	To review how the hawker control problem can be more effectively addressed after the outsourcing of estate management services	✓		✓
36	4.51(e)	To review HD's practice of recovering anti-hawking operations costs from PSAs	✓	✓	
37	5.6	To review the cost effectiveness of the "PMA+" model from time to time	✓		✓
38	5.10	To make it clear that the performance indicators and pledges promulgated by HA are equally applicable to PSAs	✓	✓	
39	5.16(a)	To draw up contingency plans, including the consideration of extending the "standby contractors" arrangements to outsourced estates	✓		✓
40	5.16(b)				



Your Ref. : CB(3)/PAC/R49  
Our Ref. : HD(EM) SST/PSA/Gen./VFM(Conf.)  
Tel : 2761 6110  
Fax : 2624 6056

8 January 2008

Clerk, Public Accounts Committee  
(Attn: Ms. Serena CHU)  
Legislative Council Building  
8 Jackson Road  
Central  
Hong Kong

Dear Ms. CHU,

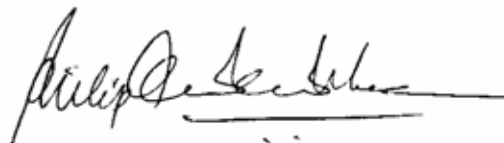
**The Director of Audit's Report on the  
results of value for money audits (Report No. 49)**

**Chapter 10 – Outsourcing of the management  
of public rental housing estates**

Thank you for your letter of 27 December 2007.

The required supplementary information, both in English and Chinese, is forwarded as attached for the consideration by the Public Accounts Committee. A soft copy of the information has been e-mailed to [cwywong@legco.gov.hk](mailto:cwywong@legco.gov.hk).

Yours sincerely,



(K. C. CHIU)  
for Director of Housing

c.c. Secretary for Financial Services and the Treasury  
Director of Audit

**Supplementary Information on the Director of Audit's Report No. 49**  
**Chapter 10 - Outsourcing of the Management of Public Rental Housing Estates**  
**Public Accounts Committee's Hearing on 10.12.2007**

- (a) (i) **Time of the first case with incorrect calculation of wages for overtime work and the actions taken in the first and other similar cases**

There were about 10 cases of this nature handled by HD for the period from 1.3.06 to 28.2.07. The dates of discovery and action taken by HD on these cases are shown in **Annex A**.

- (ii) **Reasons for the recurrence of similar problem**

As explained at the Public Accounts Committee hearing on 10.12.2007, most of these minor irregularities were detected in the first year of implementation of the package of measures introduced in May 2006. Reasons for the recurrence of similar problem could be due to the following factors -

- these cases were scattered in different estates involving different contractors;
- contractors had taken time to learn from these unintentional mistakes and to make improvement; and
- HD adopted a partnership approach in the past in accordance with the spirit advocated by the Efficiency Unit. Stepped-up action has been taken since November 2007.

- (b) (i) **Whether breaches concerning leave and Mandatory Provident Fund (MPF) should be included under the category of issuing DN with Demerit Point**

HD follows the guidelines issued under Financial Circular No. 4/2006 which is applicable to all Government departments. It stipulates that DN carrying demerit point (DNDP) is to be issued only for any of the following four breaches on contractual obligation : (i) wages; (ii) daily maximum working hours; (iii) signing of standard employment contracts; and (iv) wage payment by means of autopay to non-skilled workers. Whether or not to include other breaches concerning leave and MPF should best be reviewed by FSTB in the context of a unified action for all Government departments. HD's view is that these breaches are breaches of Employment Ordinance (Cap. 57) and the Mandatory Provident Fund Scheme Ordinance (Cap. 485) respectively, enforcement actions of which should be taken up by the relevant enforcement agencies, i.e. the Labour Department and the MPFA respectively.

- (ii) **Whether HD could refer breaches relating to possible violation of labour ordinances to law enforcement agencies for follow-up, even without the consent of the workers concerned**

Legal advice has confirmed that HD could do so if the breaches were related to possible violation of labour ordinances. HD will, in future, refer such cases to the relevant law enforcement agency for necessary action.

(c) **Results of reviews and follow-up actions taken by HD**

- (i) **HD will review its monitoring mechanism and take appropriate regulatory actions such as serving DNs, issuing adverse performance reports (ARs) and delisting PSAs/contractors from HA approved lists. (Para. 2.27(b))**

Past Practices	New Practices Arising from the Review	Follow-up Actions
Measures on protection of non-skilled workers were audited by HD frontline staff on a monthly basis. Irregularities found in the monthly audits or detected by Central Monitoring Team (CMT) would be followed up by HD staff who would consider and decide if regulatory actions including issuance of warning letter, AR, DN, or delisting from HA's approved lists where appropriate.	In addition to the past practices, a more stringent approach will be adopted in the issuance of DNNDP and DN not carrying demerit point (DNNDP). These new practices have been introduced via EMDI No. M07/2007(S) issued on 7.12.2007. For each DNNDP or DNNDP, marks will be deducted in the PSA/Contractor's performance scores which will reduce their chance of success in future tendering exercises.	To follow strictly the new guidelines EMDI No. M07/2007(S) issued on 7.12.2007. Follow-up seminars with staff and contractors would be taken.

- (ii) **HD has applied stringent rules against serious breaches of labour protection requirements in relation to committed wages, daily maximum working hours, signing of standard employment contracts and wage payment through autopay as well as those PSAs/contractors failing to comply with contractual requirements. On the other hand, HD has been adopting a partnership approach in handling outsourcing work. PSAs/contractors are allowed to take rectification actions on minor irregularities if the defaults are not committed wilfully. (Para. 2.27(c))**

Past Practices	New Practices Arising from the Review	Follow-up Actions
<p>Partnership approach was adopted, DNDP on violation of the above contractual obligations was to be issued if –</p> <p>i. the employment-related irregularities were committed intentionally (in considering the severity of the act and whether it was a technical fault).</p> <p>ii. the irregularities had not been rectified by the contractor upon notification or issue of warning letters by the management.</p>	<p>Stringent rules have been adopted against all employment-related irregularities.</p>	<p>To follow strictly the new guidelines, EMDI No. M07/2007(S) issued on 7.12.2007.</p> <p>The new practices would be clearly disseminated to HD front-line staff and contractors.</p>

- (iii) **HD will review its existing regulatory system with a view to stepping up regulatory actions against defaulted PSAs/contractors, where necessary. (Para. 2.27(d))**

Past Practices	New Practices Arising from the Review	Follow-up Actions
<p>HD has been adopting a partnership approach in handling outsourcing work. PSAs/contractors were allowed to take rectification actions on minor irregularities if the defaults were not committed wilfully.</p>	<p>Stringent rules have been adopted against all employment-related irregularities.</p> <p>Work flow has been revised to enhance follow-up action to be taken against irregular cases.</p>	<p>To follow strictly the new guidelines, EMDI No. M07/2007(S) issued on 7.12.2007.</p> <p>The new practices would be clearly disseminated to HD front-line staff and contractors.</p>

- (iv) **HD will review the details of implementation for the appointment of the CMT to oversee follow-up action taken by estate staff. (Para. 2.27(e))**

Past Practices	New Practices Arising from the Review	Follow-up Actions
CMT provided support services to estate staff in monitoring the PSAs/contractors' compliance with labour protection clauses. CMT centrally monitored the Employment-related Irregularities Complaint Register to keep in view the progress and outcome of investigation and actions taken by estate staff.	In addition to the past practices, CMT is now entrusted with the responsibility of overseeing the follow-up action taken by estate staff to ensure a consistent regulatory approach is taken in compliance with the relevant instructions.	PS Contract Process Manual was revised on 23.10.2007.  To follow strictly the new guidelines, EMDI No. M07/2007(S) issued on 7.12.2007.

- (v) **HD will issue guidelines on the documentation of regulatory actions taken or not taken for compliance by estate staff. (Para. 2.27(f))**

Past Practices	New Practices Arising from the Review	Follow-up actions
<p>i. To promote partnership spirit and avoid unnecessary disputes, frontline manager had to interview the contractor and request him to give explanation prior to the issuance of DN with record of interview to be kept.</p> <p>ii. If frontline staff were in doubt on the explanation given by the contractor, directive from their senior staff would be sought.</p> <p>iii. DN would be issued if</p>	<p>Documentation of regulatory actions taken will be recorded as follows –</p> <p>i. District Senior Housing Manager (DSHM)/Senior Property Services Manager (SPSM)'s endorsement is required for each issuance of DNDP/DNNDP or non-issuance of DN.</p> <p>ii. To pass the fully completed cases, endorsed by DSHM/SPSM, to CMT for monitoring.</p> <p>iii. In case there is</p>	<p>PS Contract Process Manual was revised on 23.10.2007.</p> <p>To follow strictly the new guidelines, EMDI No. M07/2007(S) issued on 7.12.2007.</p>

the explanation given by the contractor was not acceptable.	disagreement on the outcome endorsed by DSHM/SPSM, Regional Chief Manager's decision will be sought.	
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- (d) **HD to bring to the attention of Tender Committee (TC) the 5-year suspension and TC's decision**

FSTB's 5-year suspension requirement as stipulated in Financial Circular No. 4/2006 has been brought to the attention of the Tender Committee (TC) of HA again at its meeting on 13 December 2007. A copy of the draft minutes of the meeting (subject to confirmation at the next TC meeting) is attached at **Annex B**.

- (e) **Seek legal advice and consider the feasibility of introducing fines to penalise PSAs with persistently poor performance.**

We have sought legal advice. The advice is that HA does not have the power under the Housing Ordinance (Cap. 283) to impose a "fine" on a PSA due to its poor performance.

The legal advice further elaborates that under the laws of contract, where one party has acted in breach of the contract, the other party is entitled to claim damages for the breach. However, damages will have to be quantified and must be genuine estimates of the loss. This is typical in a construction contract where a contractor will have to pay the employer liquidated damages of a fixed amount (for each day's delay beyond the completion date) if he fails to complete the project on time.

Even so, liquidated damages clauses have been subject to legal challenges when they are perceived as a "penalty", e.g. if they are in sums in disproportionate to the actual loss.

In view of the above, it is considered inappropriate to introduce "fines" over and above actual losses to penalise PSAs due to their poor performance.

**\*Note by Clerk, PAC:** *Part of Annex B (i.e. draft minutes of Tender Committee meeting) not attached.*

(f) **Number of employment-related irregularities found in PSA contracts of the lowest and higher bids**

Of the existing 41 PSA contracts, six cases of employment-related irregularities were found in contracts of the lowest bids. Another six cases were found in those with higher bids. There seems to be no correlation between employment-related irregularities and the bids offered by contractors.

**Case of Incorrect Calculation of Wages for Overtime Work**

	Name of Estate - Nature of Contract & Date of first discovery	for period from 1.3.2006 to 28.2.2007				Remarks
		Date of letter issued to contractor asking for explanation	Date of explanation given by the contractor	Underpayment repaid to worker (Amount involved for a worker)	Date of Advisory Letter / Default Notice issued to contractor	
1	Cheung Wah - cleansing contract 24.3.2006	-	-	✓  (Less than \$80)	Nil	
2	On Yam - security contract 8.5.2006	-	-	✓  (Less than \$40)	25.10.2007	
3	Lai King - security contract 22.5.2006	-	28.6.2006	X	N/A	Labour Department confirmed no contravention of Employment Ordinance
4	Yue Wan - cleansing contract 31.7.2006	7.2.2007	13.2.2007	✓  (Less than \$200)	Nil	
5	Shan King - security contract 31.8.2006	27.11.2006	12.12.2006	✓  (Less than \$220)	Nil	
6	Sam Shing - cleansing contract 4.10.2006	30.11.2006	5.12.2006	✓  (Less than \$30)	29.3.2007	



**Case of Incorrect Calculation of Wages for Overtime Work**

	Name of Estate - Nature of Contract & Date of first discovery	for period from 1.3.2006 to 28.2.2007				Remarks
		Date of letter issued to contractor asking for explanation	Date of explanation given by the contractor	Underpayment repaid to worker (Amount involved for a worker)	Date of Advisory Letter / Default Notice issued to contractor	
7	Lei Yue Mun - security contract 8.1.2007	16.4.2007	22.6.2007 and 25.7.2007	✓  (Less than \$100)	6.8.2007	
8	Fu Tai - security contract 18.1.2007	7.6.2007	28.6.2007	✓  (Less than \$680)	24.10.2007	
9	Shun On - security contract 29.1.2007	3.5.2007 and 5.6.2007	8.6.2007	✓  (Less than \$100)	23.7.2007	
10	Shek Yam - cleansing contract 8.2.2007	17.5.2007	13.6.2007	✓  (Less than \$200)	Nil	

## **Protection of Non-skilled Workers Engaged in Outsourcing Contracts**

Tender Committee  
13 December 2007

### **ISSUE**

**Audit Commission** recommended that the Director of Housing should bring to the attention of the Tender Committee the FSTB's five-year suspension requirement in Financial Circular No.4/2006

(FSTB is the Financial Services and the Treasury Bureau)

## COMPARISON

### HA's Practice

(approved by TC on 23.3.2006)

- If a **service contractor** has obtained any conviction under the relevant Ordinances on or after 1.5.2006 or over a rolling period of 3 years accumulated three demerit points obtained on or after 1.5.2006, **it will be removed from the respective HA List. The period of removal will be set at a maximum of five years.**

### Government Practice

(FC No. 4/2006 promulgated on 27.4.2006)

- If a **tenderer** has obtained any conviction under the relevant Ordinances on or after 1.5.2006 or over a rolling period of 3 years accumulated three demerit points obtained on or after 1.5.2006, **its tender offer shall not be considered for a period of five years.**

## Background in formulating HA's policy

- HA's policy was approved by Members on 23.3.2006 upon discussion of **Paper No. TC 34/2006 on Tightening Measures for Service Contracts**
- A five-year list removal was first proposed
- Members opined that a more flexible approach should be adopted and thus approved the period should be **set at a maximum of five years** (Paper No. TC 42/2006 meeting minutes refers)

## **Fundamental Difference in the Procurement Policy & Practice**

### **Housing Authority**

- Has been maintaining permanent lists of service contractors
- Adopts a selective tendering procedure

### **The Government**

- Has **NO** list of services contractors
- Adopts an open tendering procedure

## **HA's List Management Mechanism**

### **List Admission Criteria**

- 5-year clean conviction record
- 5-year clean demerit point record
- Satisfactory record of fair treatment to non-skilled workers over the past 5 years

### **List Retention Criteria**

- Annual submission of a statement of 'all convictions' or 'no conviction' and 'all demerit point' received

### **Regulatory Action**

- List removal up to 5 years for any conviction received or 3 demerit points in a rolling 3-year period accumulated

### **Objection or Appeal Mechanism**

- Provisional Review Board considers and determines appeals against default notices attracting demerit points. (Since establishment, 2 Board Meetings were conducted in October 2005, chaired by D2 officer with the participation of one TC Member.)

## List Removal of a Service Contractor

Paper No. TC 39/2007 (19 July 2007)

- A service contractor on HA Lists with one court conviction under the Employees' Compensation Ordinance (ECO) on 10.11.2006 was discussed. The offence was the dismissal of an injured worker in Oct 2005 before the issue of Certificate of Compensation Assessment).
- Members approved to impose a 1-year list removal, counting from the date of conviction, on the service contractor.
- The service contractor applied for List Re-admission recently. Whilst processing its application, we found that this service contractor had 2 convictions on 18.7.2003 which had contravened our list admission requirement of a 5-year clean conviction record.

## Way Forward

- The Legislative Council Public Accounts Committee (PAC) directed the Department to draw Members' attention to **consider re-examining her policy and practices** having regard to the mechanism as promulgated in the Financial Circular No. 4/2006

## **Protection of Non-skilled Workers Way Forward - Enhancement**

### **Contract Management** (Performance Monitoring)

To strengthen the system on the issuance of

- **Default Notices attracting Demerit Points, AND**
- **Default Notices not attracting Demerit Points**

### **List Management**

- **More Tightened Measures?**
- **To align with policy promulgated by FSTB?**

From : CM/M(SS3)

To : All HMs/PSMs in EMD

Date : 7 December 2007

## Estate Management Division Instruction No. M07/2007(S)

**Supplement to  
Administration of Labour Protection Clauses  
in Cleansing and Security Service Contracts  
of HD Directly Managed Estates  
( Hardline Approach towards Employment Related Irregularities )**

Status : Mandatory

**Contact Point** : Mrs. CHENG CHUNG Yuen-lan HM/Estate Services (Tel. : 2761 5912)  
Mr. CHAU Yuen-leung HM/CMT (Tel. : 3162 0589)

**PURPOSE**

1. This instruction serves to supplement EMDI M07/2007 to inform estate management staff to implement the hardline approach towards employment related irregularities committed by contractors employing non-skilled workers in cleansing, security and property services contracts of HD properties

**BACKGROUND**

2. According to EMDI No. M07/2007, **Default Notice that Carries Demerit Point (DNNDP)** should be issued to contractors violating contractual obligations in respect of :-
  - (a) committed wages;
  - (b) working hours;
  - (c) signing of Standard Employment Contract; and
  - (d) wage payment by means of autopay.
3. In addition, **Default Notices which Do NOT Carry Demerit Points (DNNDP)** should also be issued for exploitation acts other than the four breaches mentioned at paragraph 2 above and other than those subject to conviction under the employment related ordinances. These irregularities include cross-region working, collection of charges such as fees for uniform, training, administration and equipment, etc. [ For details on issuance of DNNDP, please refer to paragraph 13 of EMDI M07/2007. DNNDPs issued should be copied to SM/P2, SHM/EDS, SPSM/SS, DSHM/SPSM and RCM for record purpose (list of cc officers supersedes those suggested on the sample DNNDP letters attached at **Annex XI** of EMDI M07/2007) ].

**ACTION****Hardline Approach**

4. With a view to further protecting the rights and benefits of non-skilled workers from exploitation by service contractors, it was endorsed during the **EMD meeting on 2.11.2007** that a **Hardline Approach** should be adopted against **ALL** employment-related irregularities.

### Central Monitoring Mechanism

5. HM/CMT will oversee the follow-up actions taken by estate staff on suspected employment-related irregular cases in a specified time-frame. Starting from January 2008, a detailed report on irregular cases has to be submitted to EMD meeting by CMT on quarterly basis. A *"Flow Chart on Handling of Suspected Employment- related Irregular Cases"* is attached at **Annex A** with main actions to be taken by estate staff highlighted below for easy guidance:-
  - (a) To inform CMT of complaint cases on exploitation received through various channels (e.g. CRMS) for recording and monitoring within seven working days.
  - (b) To take follow-up actions on the irregular cases within two months' time-frame.
  - (c) To inform CMT the progress monthly for cases not completed within two months.
  - (d) DSHM/SPSM's endorsement is required for each issue of DNNDP/DNNDP or non-issue of DN.
  - (e) To pass the fully completed cases, endorsed by DSHM/SPSM, to CMT for monitoring.
  - (f) In case there is disagreement on the outcome endorsed by DSHMs/SPSMs, RCM's clarification will be sought before making a conclusion.
6. Actions to be taken against any employment-related irregularities are at **Annex B** for reference.
7. Typical cases which warrant the issue of DNNDP/DNNDP, though not exhaustive, are attached at **Annex C** for easy reference. Moreover, supplementary information from CMT (FAQ and case study notes) can be viewed through the following path: e-Housing > EM > Tenancy Management > PHRM Sub-section > CMT Useful Information.

### IMPLEMENTATION

8. The above guideline applies to service contracts of both HD-managed and PSA-managed estates. For irregular cases forwarded by HM/CMT to estates concerned as from 1 July 2007, estate management staff is required to adopt the hardline approach to critically examine these cases and issue DNNDP/DNNDP as appropriate. PSAs and cleansing/security contractors will be notified of the hardline approach by staff of SS1 and SS3 respectively.

### ENQUIRY

9. For further enquiries, please call the following officers:-
  - (a) Mr. C. W. LAU, AHM/ES(2) at 2716 5857 (for direct security contracts)
  - (b) Mr. K. K. WONG, AHM/ES(4) at 2761 5923 (for direct cleansing contracts)
  - (c) Mr. K. Y. LEUNG, BSE/SS1 at 2761 5910 (for PSA contracts)
  - (d) Mr. Y.L. CHAU, HM/CMT at 3162 0589

(Signed)  
(K S LEE)  
CM/M(SS3)



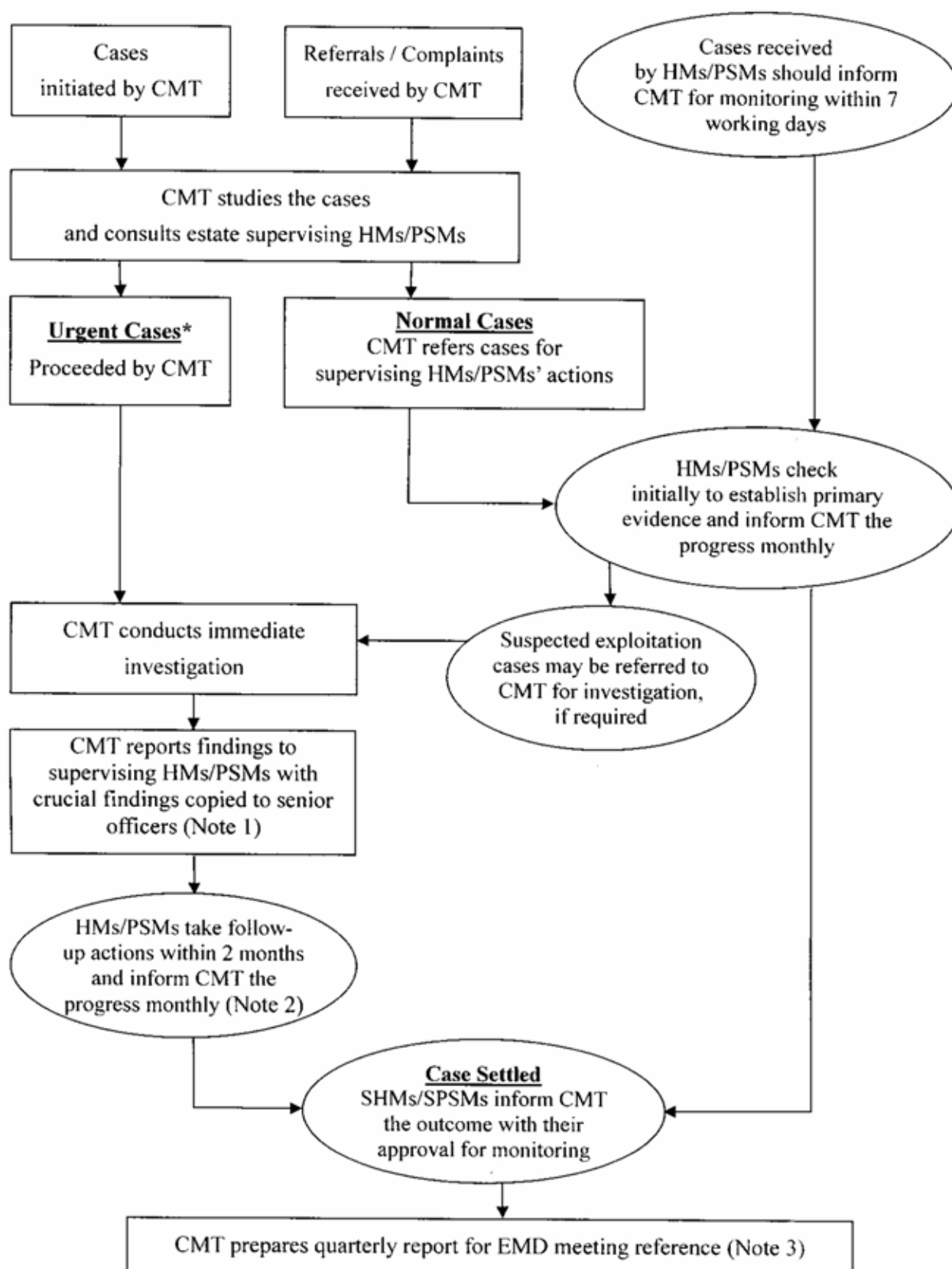
**EMDI No. M07/ 2007(S)**

**Encls.**

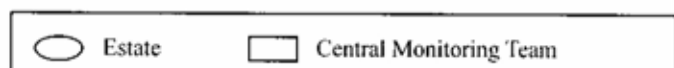
- Annex A - Flow Chart on Handling of Suspected Employment Related Irregular Cases**
- Annex B - Actions to be Taken Against Employment Related Irregularities**
- Annex C - Irregularities which Warrant the Issue of Default Notice**

Uncontrolled copy to - DD/EM, ADs/EM, H/CCR, AD/LS, SM/P2  
All CMs, SHMs, SPSMs, HMs and PSMs in EMD

**Flow Chart on Handling of Suspected Employment-related Irregular Cases**



\* Cases may attract public attention or require prompt response from HD.



- Note 1 - For completion of investigation report, CMT will check the details of the service contract like non-skilled workers employment records for the past 3 to 4 months which will take about 2 months time. The said investigation period will be extended if the contractor cannot provide the requisite documents for CMT inspection.

Following the new implementation of 《 Employment (Amendment) Ordinance 2007 》 on 13 July 2007, calculation for Holiday Day, Annual Leave Day, Sickness Allowance, Payment for Maternity Leave, End of Year Payment, Wages in lieu of Notice will depend on the worker's past twelve months average daily wages. In the circumstances, CMT may require a longer investigation time to complete the cases.

CMT will report the crucial points of the findings to senior officers for their attention when necessary.

- Note 2 - CMT will oversee the progress and review the case monthly until full completion of the case by HMs/PSMs within 2 months with endorsement of their SHMs/SPSMs after considering the justification of the case. HMs/PSMs may consider to issue default notice (DN) with reference to the merits of individual case, standing instructions and guidelines. DN if so issued should be copied to HM/CMT for monitoring purpose.

CMT is appointed to oversee the follow-up action of irregular cases taken by estate staff.

- Note 3 - For any case with outstanding period longer than 3 months (counting from receiving CMT investigation report or CRMS referrals), CMT will provide details in a case summary for reference.

## **Actions to be Taken Against Employment-related Irregularities**

### **1. Referral to Government Departments/Statutory Authorities**

Contractors who have been suspected of contravening the terms and conditions in the standard employment contract (SEC) in connection with the Employment Ordinance (Cap 57), Employees' Compensation Ordinance (Cap. 282), Immigration Ordinance (Cap 115) or the relevant sections of the Mandatory Provident Fund Schemes Ordinance (Cap 485) should be referred to concerned government departments/statutory authorities (as listed in Annex V(e) of the above EMDI) for considerations of legal sanctions.

### **2. Issue of Default Notice Attracting Demerit Point\***

Under the Demerit Point System, a default notice attracting one demerit point (DNBP) should be issued to the contractor for each breach of the contractual obligations in respect of wages, daily maximum working hours, signing of SEC and payment of wages by means of autopay to its non-skilled workers.

### **3. Issue of Default Notice Not Attracting Demerit Point\***

For breaches of other terms and conditions in the SEC not covered by relevant ordinances and the Demerit Point System, default notices not attracting demerit point (DNNDP) should be issued to the contractors.

### **4. Non-issue of DN**

For exceptional cases when the breach was purely due to circumstances beyond the contractor's duty and control that the issue of DN may not be warranted, each of such exceptional cases should be considered on its own merits and are fully justified.

In any event, estate staff should thoroughly investigate each and every report or complaint of breach of contractual obligations and refer the cases to concerned departments / issue DNBP/DNNDP as appropriate when the breach of contractual obligations is fully substantiated. Where appropriate, advice from Labour Department should be sought so as to confirm whether the contractors are in breach of the relevant contractual obligations before issue of DN.

\* Please refer to Annex C for cases which warrant the issue of DNBP/DNNDP.

## Irregularities which warrant the issue of Default Notice

Irregularities which warrant the issue of Default Notice that Carries Demerit Point (DNDP)	Example
1. Wages <sup>(Note 1)</sup>	(a) underpayment of wages (e.g. fail to pay overtime allowance, miscalculation of overtime payment by using the calculation of deduction for absentee, etc.) (b) fail to pay employee working on rest days
2. Working Hours	(a) the working hour of cleansing worker exceeds the maximum limit stated in the contract (b) the working hour of security guard exceeds 8 hours in any 24-hour period
3. Standard Employment Contract (SEC)	(a) no Standard Employment Contract signed for employee working for more than 7 days (b) non-standard employment contract signed
4. Auto-pay	(a) wage payment not by auto-pay

Irregularities which warrant the issue of Default Notice that Carries No Demerit Point (DNNDP)	Example
1. Leave <sup>(Note 1)</sup>	(a) payment of wage/cash in lieu of rest days, statutory holidays or paid annual leave <sup>(Note 2)</sup> (b) fail to grant rest days, statutory holidays or paid annual leave to employee
2. Mandatory Provident Fund (MPF) <sup>(Note 1)</sup>	(a) late contribution of MPF (b) absence of contribution record
3. Admin / Uniform Charges	(a) collection of charges for uniform deposit/uniform, laundry, administration and training, etc.
4. Others	(a) fail to provide the duplicate copy of the SEC to employee (b) fail to issue salary statement to employee (c) arrange employee to work in cross-region

(Note 1) These irregularities may also be breaches in **Employment Ordinance**, **Employees' Compensation Ordinance** and **Mandatory Provident Fund Schemes Ordinance**. Upon the authorization of the worker concerned, Housing Manager/Property Services Manager should refer the case to relevant Departments for follow up action. If the worker refuses to authorize the referral, Housing Manager/Property Services Manager would, on discretion, consider to issue DNDP/DNNDP to the default contractor.

(Note 2) Employee may choose to accept payment in lieu of the part of his leave entitlement which exceeds 10 days.

## ACRONYMS AND ABBREVIATIONS

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Audit	Audit Commission
CEDD	Civil Engineering and Development Department
CMT	Central Monitoring Team
CoM	Committee on Museums
COR	Controlling Officer's Report
CSB	Civil Service Bureau
CSSA	Comprehensive Social Security Assistance
D of A	Director of Audit
DC	District Council
DCS	Departmental contract staff
DNs	Default notices
DPS	Demerit Point System
DSHM	District Senior Housing Manager
EC	Elderly Commission
EIA	Environmental Impact Assessment
EMAC	Estate Management Advisory Committee
EMF	Export Marketing Fund
EPs	Eligible persons
EPD	Environmental Protection Department
ESF	English Schools Foundation
EU	Efficiency Unit
FEHD	Food and Environmental Hygiene Department
FSTB	Financial Services and the Treasury Bureau
GFIS	Government Fleet Information System
GSAs	General Services Assistants
HA	Housing Authority
HD	Housing Department
HKU	University of Hong Kong
Imm D	Immigration Department
Lands D	Lands Department
LCSD	Leisure and Cultural Services Department

## ACRONYMS AND ABBREVIATIONS

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LegCo	Legislative Council
MD	Marine Department
MOU	Mobile Operations Unit
MPF	Mandatory Provident Fund
MSSUs	Medical Social Services Units
MSWs	Medical Social Workers
MTR	Mass Transit Railway
NCSC	Non-civil service contract
NEPs	Non-eligible persons
OB	Outside broadcast
ORO	Official Receiver's Office
OT	Overtime
PIPs	Private sector insolvency practitioners
PolyU	Hong Kong Polytechnic University
PRH	Public rental housing
PSAs	Property services agents
PSAUs	Property Service Administration Units
RTHK	Radio Television Hong Kong
SCL	Shatin to Central Link
SDF	SME Development Fund
SGS	SME Loan Guarantee Scheme
SHPL	Secretary for Housing, Planning and Lands
SMEs	Small and medium enterprises
SMEC	Small and Medium Enterprises Committee
SPSM	Senior Property Services Manager
SSSH	Sheung Shui Slaughterhouse
STF	SME Training Fund
SWD	Social Welfare Department
TC	Tender Committee
TD	Transport Department
TID	Trade and Industry Department

## ACRONYMS AND ABBREVIATIONS

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TSA	Technical Services Agreement
TWSH	Tsuen Wan Slaughterhouse
UGC	University Grants Committee
UNHCR	United Nations High Commissioner for Refugees
VALID	Vehicles and Drivers Licensing Integrated Data