

**REPORT OF THE
PUBLIC ACCOUNTS COMMITTEE
ON
REPORT NO. 52 OF THE DIRECTOR OF AUDIT
ON
THE RESULTS OF
VALUE FOR MONEY AUDITS**

July 2009

P.A.C. Report No. 52

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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 Paul CHAN Mo-po, MH, JP

Members : Hon Andrew CHENG Kar-foo
Hon Abraham SHEK Lai-him, SBS, JP
Hon Alan LEONG Kah-kit, SC
Hon Starry LEE Wai-king
Hon WONG Yuk-man

Clerk : Ms Miranda HON Lut-fo

Legal Adviser : Mr Arthur CHEUNG

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 signed a 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 Report No. 52 of the Director of Audit on the results of value for money audits which was tabled in the Legislative Council on 22 April 2009. 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. **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.

Consideration of the Director of Audit's Report tabled in the Legislative Council on 22 April 2009 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. 52 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 11 meetings and six public hearings in respect of the subjects covered in this Report. During the public hearings, the Committee heard evidence from a total of 23 witnesses, including three Directors of Bureau. The names of the witnesses are listed in *Appendix 3* to this Report. A copy of the Chairman's introductory remarks at the first public hearing in respect of the Director of Audit's Report No. 52 on 5 May 2009 is in *Appendix 4*.

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 4 below.

4. The audio record of the proceedings of the Committee's public hearings 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.

A. Introduction

The Audit Commission ("Audit") conducted a review of the Equal Opportunities Commission ("EOC")'s activities, focusing on the following areas:

- corporate governance;
- complaint handling procedures;
- duty visits outside Hong Kong;
- seminars;
- procurement and management of stores;
- other administrative issues; and
- performance reporting in Controlling Officer's Report ("COR").

2. The Committee held four public hearings on 5, 11 (two sessions) and 14 May 2009 respectively to receive evidence on the findings and observations of the Director of Audit's Report ("Audit Report").

3. **Mr Stephen LAM Sui-lung, Secretary for Constitutional and Mainland Affairs**, made an opening statement at the Committee's first public hearing on 5 May 2009. The full text of his statement is in *Appendix 5*.

B. Handling of the draft Audit Report

4. The Committee noted from press reports that some EOC Board Members had criticised the way the Chairperson, EOC, had handled the draft Audit Report, claiming that he had withheld from them the draft Audit Report and the EOC's response to the draft. They were dissatisfied that the Chairperson had centralised all powers in himself. It was only at the insistence of Board Members that the Chairperson let them have sight of the draft Audit Report. The Committee invited the Chairperson's response to such reports, and enquired about the details of how he had handled the draft Audit Report.

5. **Mr Raymond TANG Yee-bong, Chairperson, EOC**, said that:

- he received the draft Audit Report from Audit on 13 February 2009, and was given two weeks to provide a formal EOC's response to the draft. A few days later, he received a letter from the Secretary for Financial Services and the Treasury, in which the importance of maintaining the confidentiality of the draft Audit Report before its tabling in the Legislative Council ("LegCo") was emphasised. Audit had also sent him a letter earlier, stressing the confidentiality requirements regarding the value for money audit, and the need to restrict the circulation of the draft on a need-to-know basis;
- to protect the integrity and confidentiality of the draft Audit Report, and since the issues raised in the Audit Report mainly concerned the EOC's internal operations, he had adopted a narrow interpretation of the need-to-know requirement by only involving relevant staff of the EOC to prepare a response to Audit. During the process, the Director (Planning and Administration), Head (Corporate Communications and Training), Senior Equal Opportunities Officer (Administration and Personnel) and an Accountant had read the draft;
- however, he considered that it would not be appropriate if Board Members were not informed of the EOC's response to Audit before the release of the Audit Report. He therefore decided to raise the matter under the agenda item "Any Other Business" ("AOB") at the EOC's regular meeting on 19 March 2009;
- at the meeting on 19 March 2009, he verbally informed Board Members that initial response had been provided to Audit "in view of the confidential requirements on the handling of the audit report and the pressing time schedule provided by the Audit Commission". Members however considered that they should have sight of the draft Audit Report and the EOC's response, and strongly requested that a meeting be convened as soon as possible to discuss the matter;
- as a result, a special meeting was held on 26 March 2009. Board Members made comments on the draft Audit Report and the EOC's response, and proposed some amendments. Board Members' comments were forwarded to Audit afterwards, and Audit had included all the proposed amendments in the final Audit Report; and
- he definitely had no intention to withhold the draft Audit Report from Board Members, as the Audit Report would be published anyway. He was only concerned about the possible breach of the confidentiality requirements, which had time and again been stressed by the Administration and Audit. With hindsight, he should have accepted the risks of possible leakage, and engaged the Board at an earlier stage after receipt of the draft Audit Report.

6. The Committee noted from the notice and agenda of the meeting held on 19 March 2009 issued on 26 February 2009 (in **Appendix 6**) that there was no mention that the draft Audit Report would be discussed under the agenda item AOB. On 16 March 2009, a revised agenda (in **Appendix 7**) was issued with an item "Terms of Reference of the Legal and Complaints Committee" added under AOB, but the draft Audit Report was still not included as a discussion item. The Committee queried why the Chairperson had not given notice to Members regarding the discussion of the draft Audit Report, although he could do so on two occasions, i.e. when issuing the first agenda and the revised agenda of that meeting.

7. The **Chairperson, EOC**, said that he had not set out the specific discussion item in order to protect the confidentiality of the draft Audit Report. During the audit exercise, Audit and the Administration had sent a strong message to him that the confidentiality requirements had to be strictly observed. Therefore, he intended to give a verbal report to Board Members at the meeting on 19 March 2009 and listen to their views first.

8. According to the minutes of the EOC meeting held on 26 March 2009, the draft Audit Report and the EOC's response to Audit were only tabled at the meeting, and Board Members had just about 30 minutes to read the relevant documents before the discussion took place. The Committee asked whether such arrangement reflected that the Chairperson had no trust in the Board Members.

9. The **Chairperson, EOC**, responded that every Board Member should understand the confidentiality requirements which were stipulated in the relevant EOC guidelines for Board Members. However, in the past decade, leakages of confidential information of the EOC occurred from time to time, and had already damaged the public image of the EOC. He therefore tried to protect the confidentiality of the draft Audit Report by requiring Board Members to sign a Declaration of Confidentiality before giving them a copy of the relevant documents, in case any leakage might hurt the reputation of the EOC again.

10. The Committee also noted from press reports that a Board Member claimed that the Chairperson had not provided the part of the draft Audit Report relating to his life insurance coverage to Board Members at the meeting on 26 March 2009, and asked whether this was the case. The **Chairperson, EOC**, answered in the negative and said that he had provided the full version of the draft Audit Report to each Board Member.

11. In response to the Committee's request, the Chairperson, EOC, provided the audio record of the EOC's meetings held on 19 and 26 March 2009. According to the audio record of the EOC's meeting held on 19 March 2009, the Chairperson informed Board Members that he had tried to request Audit to allow Board Members to have sight of the draft Audit Report but in vain. The Committee asked when the request was made with Audit, and about Audit's stance on the matter.

12. The **Chairperson, EOC**, said that the EOC held a meeting with Audit on 10 February 2009 to discuss the draft Audit Report. Staff of the Constitutional and Mainland Affairs Bureau ("CMAB") also attended the meeting. During the meeting, he received a strong message from Audit that if the draft Audit Report was to be discussed at a Board meeting, it might be difficult to safeguard the confidentiality of the document.

13. **Mr Benjamin TANG, Director of Audit**, responded that:

- the EOC Chairperson's statement was not true. On the contrary, Audit had always expected that the Board would participate in the consideration of the audit findings. This could be seen from his letter dated 24 September 2008 to the Chairperson (in *Appendix 8*) when Audit commenced its review at the EOC;
- it was stated in the letter that "The purpose of this letter is to draw your attention to the agreed arrangements between the Public Accounts Committee (PAC) and the Administration in upholding confidentiality of value for money (VFM) audit reports. You are kindly requested to take necessary action to ensure that the Equal Opportunities Commission (EOC), its Committees and staff who are involved in the VFM audit or have access to the VFM audit report (either in draft form or in final version), are made aware of these requirements and abide by them". By mentioning the EOC and its Committees, Audit obviously had not excluded Board Members from access to the draft Audit Report, as long as they abided by the confidentiality requirements;
- further, it was stated in the same letter that "Under no circumstances should the EOC, its Committees and staff disclose in public the issues covered in the draft audit report. Even if they are tackled by the media, they should refrain from speaking or confirming the audit issues". Again, Audit already assumed that the EOC and its Committees would participate in the process of considering the draft Audit Report; and
- he had also instructed his staff to remind the EOC to engage the Board in the consideration of audit findings.

14. In response to the Director of Audit's comments, the **Chairperson, EOC**, said that:

- he did not want to confront what the Director of Audit had said. In fact, the Director did not attend the meeting on 10 February 2009. During the audit review, he was not asked or encouraged to engage the Board Members; and
- in the letter dated 16 February 2009 from the Secretary for Financial Services and the Treasury to himself (in **Appendix 9**), it was stated that there had been extensive leakage of the Audit Report in the past, and the Chief Secretary for Administration personally wrote to the Public Accounts Committee Chairman to reassure him of the Administration's commitment to maintain the draft Audit Report in confidence. Guidelines for handling the draft Audit Report were also attached to the letter. He therefore took a serious view of the confidentiality requirements.

15. Responding to the Committee's enquiry on who attended the meeting on 10 February 2009, **Mr Joseph YING Kwok-wing, Assistant Director of Audit**, said that he attended the meeting on that day. He clearly remembered using the word "engage" when reminding the EOC of the need to observe the confidentiality requirements during the process of engaging the Board. However, there was no record of that meeting, and it seemed that the EOC had received a different message. Audit would definitely not ask the Chairperson not to disclose the draft Audit Report to Board Members. This was just common sense.

16. **Mr Arthur HO Kin-wah, Deputy Secretary for Constitutional and Mainland Affairs**, also said that he attended the meeting on that day. At the meeting, most of the time was devoted to the discussion of the draft Audit Report, and the importance of confidentiality requirements was also mentioned. There was no detailed discussion on whether the draft Audit Report should be provided to the Board.

17. To prevent the recurrence of similar situation, the Committee asked whether, in future, Audit would consider requiring an auditee which was a non-governmental organisation to seek its governing body's endorsement of the organisation's response to the draft Audit Report.

18. The **Director of Audit** said that:

- Audit's practice had been to verbally remind the auditee to engage its governing body in the consideration of audit findings. As to how the governing body was to be consulted or involved, it would be up to the individual organisations. From past experience, the Hong Kong Applied Science and Technology Research Institute Company Limited, the Hong Kong Tourism Board and the Consumer Council had all engaged their governing bodies in considering the draft Audit Report;
- Audit had expected the EOC to engage the Board because the Audit Report had mentioned problems in corporate governance, Board Members' attendance rates at Board/Committee meetings, and their participation in the duty visit to Beijing, etc; and
- Audit would consider whether in future, it was necessary to clearly specify the need to engage the governing body in the consideration of the audit findings.

19. The Committee then enquired about the comments made by Board Members on the draft Audit Report and the EOC's response at the meeting on 26 March 2009, and what the proposed amendments were.

20. The **Chairperson, EOC**, said that:

- some Board Members found certain audit observations unfair, as efforts made by the EOC in saving costs were not duly recognised simply because there was procedural impropriety. Whilst accepting the audit recommendations, Board Members considered that the EOC should strengthen its response to Audit by explaining the reasons behind a decision and efforts made in cost-saving; and
- Board Members' comments were then incorporated into the EOC's response as a revised version and sent to Audit on 27 March 2009.

21. The **Director of Audit** supplemented that:

- noting that the EOC would hold a Board meeting on 26 March 2009 to discuss the draft Audit Report, Audit had waited for the EOC's comments so that they could be incorporated in the Audit Report to be finalised on 27 March 2009 for printing; and

- the EOC's proposed amendments mainly covered three points, which had been included in paragraphs 2.5 (Board Members' views on the separation of the posts of the Chairperson and the Chief Executive Officer ("CEO")), 4.18(f) (the EOC's approach in handling the lunch expense of \$540) and 5.16(a) (Board Members' efforts in trimming the budget for a seminar) of the Audit Report.

22. According to the audio record of the EOC's meeting on 26 March 2009, during the exchange of views among the Chairperson, certain Board members and the Director (Planning and Administration), there were comments that some of the audit findings were trivial and insignificant, and many organisations had similar problems. There were also comments that from a public relations perspective, there could be serious consequences if the EOC did not accept the audit observations and recommendations. It appeared to the Committee that the EOC was not serious in accepting the audit findings as genuine problems which needed to be addressed.

23. In response to the Committee's concern, the **Chairperson, EOC**, said that:

- it was an opportune time for the EOC to come under an objective review by Audit. He welcomed the audit examination and was grateful to the efforts made by Audit staff; and
- as a statutory body with over 12 years' history, the EOC had developed its own way and system to carry out its business. The benefit of hindsight was always a perfect sight, and there were always better ways of doing the same thing. The EOC would continue to make improvements.

24. On the comments that some audit findings were trivial, the **Director of Audit** said that:

- in conducting audit reviews, Audit was not only concerned about the amount of money involved in a non-compliance case, but also the principle governing the use of public funds; and
- in its formal response to Audit, the EOC had accepted all the audit recommendations. Audit, the Administration and the Public Accounts Committee would continue to follow up the EOC's progress in implementing these recommendations.

25. The **Secretary for Constitutional and Mainland Affairs** also said that he did not agree using the amount of money involved to judge the importance of a problem. Such comments were inappropriate as the EOC was using public money to provide service to the community.

C. Corporate governance

Governance structure

26. According to paragraph 2.11 of the Audit Report, the results of past reviews conducted by three different parties (the EOC, the Independent Panel of Inquiry and the Home Affairs Bureau ("HAB")) had all pointed to the need to separate the posts of the Chairperson and the CEO in the EOC, in order to provide an effective system of checks and balances. However, there had been a lack of progress on the matter after the meeting of the LegCo Panel on Home Affairs held in January 2006. The Committee enquired about the EOC's views regarding the separation proposal, and the reasons for the lack of progress of the matter.

27. The **Chairperson, EOC**, said that:

- the EOC had spent a lot of time discussing the three reviews and following up the recommendations therein. Board Members generally supported the separation of the two posts, provided that any change would achieve the desired result of strengthening the governance structure and would not affect the EOC's importance and ability in administering the anti-discrimination legislation; and
- in order that the CEO post could provide an effective system of checks and balances, the CEO should be an ex-officio executive member in the EOC Board with a statutory role. Such change would require legislative amendments, which had to be initiated by the Administration.

28. Regarding the progress of the matter, the **Secretary for Constitutional and Mainland Affairs** said that:

- at the meeting of the Panel on Home Affairs held in January 2006, the HAB explained the separation proposal to LegCo Members by making reference to a review of the corporate governance of similar public bodies. However, some LegCo Members raised strong reservations towards the separation proposal. They were of the view that as the EOC was responsible for safeguarding human rights and due to its unique nature, it was inappropriate to compare the governance structure of the EOC with other public bodies,

which largely operated on the basis of commercial principles. Besides, the proposal might result in a situation where the EOC would become executive-led and the Chairperson would be sidelined. In view of the reservations expressed, the HAB had decided not to take the matter forward; and

- since the CMAB took over from the HAB the policy responsibility relating to human rights in July 2007, it had assessed when and how the matter should be followed up. The publication of the Audit Report provided a good opportunity to revisit the matter. The CMAB would consult the LegCo Panel on Constitutional Affairs later, and listen to further views expressed by LegCo Members regarding the proposal, in order to bring the matter to a satisfactory conclusion.

29. Since there was no government member sitting on the EOC Board, the Committee asked how the Administration could ensure that the EOC followed the guidelines and good practices on sound corporate governance.

30. The **Secretary for Constitutional and Mainland Affairs** said that:

- since the EOC was an independent statutory body, it operated on its own according to the statutory requirements. The Administration's responsibilities were mainly to appoint the EOC Chairperson and Board Members, allocate resources to the EOC to ensure that it could carry out its statutory functions, and make recommendations for legislative proposals or amendments;
- the CMAB was kept informed of the work of the EOC through various channels. For example, the EOC would provide the CMAB with a monthly financial report and a quarterly report on the progress of its work in implementing the four anti-discrimination ordinances. Moreover, the Deputy Secretary of the CMAB would hold a meeting with the EOC Chairperson and his staff every six months to exchange information or views; and
- the Administration had provided the government guidelines on good corporate governance to the EOC, and would also issue other government guidelines, such as those on tendering, procurement and financial management, to the EOC for reference as and when necessary.

31. Since the regular reports and meetings mentioned above would not cover problems in corporate governance and internal control, the Committee asked:

- how the Administration could strengthen monitoring in such aspects to ensure the proper use of public funds; and
- whether the EOC would consider setting up an additional committee, or expanding the terms of reference of its Administration and Finance Committee, to oversee corporate governance, internal control and compliance matters.

32. The **Secretary for Constitutional and Mainland Affairs** said that although some instances of improper expenditure identified by Audit did not involve a large amount, they did reveal that the EOC needed to improve its financial control and management. In view of this, the CMAB was considering allocating funding to the EOC to engage external auditors (with expertise in management) to follow up the various issues identified by Audit, and to enhance the EOC's internal financial control and management capabilities. The auditors' recommendations and reports would also be made public, so that the LegCo and the public could be kept informed of the improvement work, thereby re-gaining confidence in the EOC. Subject to the EOC's agreement to the suggestion, the CMAB would provide funding to the EOC to carry out the work.

33. The **Chairperson, EOC**, stated in his letter of 19 June 2009 in *Appendix 10* that at the EOC's 80th meeting held on 18 June 2009, it was decided that the Administration and Finance Committee and the respective convenors and deputy convenors of the other three Committees would be tasked with the responsibility for overseeing corporate governance and compliance matters as well as following up the audit recommendations.

34. In the light of the multifarious problems in governance and administration identified by Audit, and the fact that the Chairperson was the only full-time executive head of the EOC, the Committee asked:

- how the Chairperson would evaluate his own performance, particularly in leading the EOC to achieve a high standard of corporate governance and management;
- whether the problems were due to the over-concentration of powers in the Chairperson under the existing governance structure; and
- whether the Administration would review the criteria for selecting the Chairperson of the EOC in future.

35. The **Chairperson, EOC**, said that:

- it was not up to him to give an assessment of his performance. After the deletion of the CEO post in 2000, the Chairperson had become the only full-time executive head and he had to shoulder many responsibilities and make decisions in relation to daily operations. Other Board Members were only appointed on a part-time basis. This weak governance structure might have left the public with the impression that he, as the Chairperson, had acted on his own and there was no safeguard to check his powers;
- the EOC had established four Committees to oversee various aspects of the EOC's operations. To allow Board Members to have more direct participation in the EOC's work, he was only the convenor of the Legal and Complaints Committee, and was not even members of the other three Committees; and
- despite the problems identified by Audit in governance and administration, the EOC had done a great job in promoting equal opportunities and implementing the anti-discrimination ordinances.

36. On the selection criteria of the Chairperson, the **Secretary for Constitutional and Mainland Affairs** said that:

- in appointing the previous Chairpersons of the EOC, the Government had appointed people with experience in public service and expertise in promoting equal opportunities. Learning from past experience, and having regard to the Audit Report, the future appointee should also have experience in managing a medium-sized organisation, and be able to positively promote the work of the EOC to the public. The Chairperson should also be able to cooperate with Board Members; and
- he was prepared to recommend to the Chief Executive of the Hong Kong Special Administrative Region ("HKSAR") that the EOC Chairperson for the term starting from January 2010 should be recruited through open recruitment procedures.

37. The Committee asked whether the Director (Planning and Administration) of the EOC, as the most senior staff (at Directorate Pay Scale Point 2) responsible for administrative matters, had advised the Chairperson of the governance problems and made recommendations for improvement.

38. **Mr Michael CHAN, Director (Planning and Administration), EOC**, said that like other EOC staff, he assisted the Chairperson in his daily work, and made recommendations to the Chairperson from time to time. For example, he had suggested that measures be taken to familiarise Board Members with the work of the EOC and to facilitate team building. At the EOC's bi-weekly Monday Group meetings, senior staff of different divisions also met with the Chairperson to discuss work strategies and progress, and make various recommendations. As to the handling of the draft Audit Report, he and other staff had also given their views to the Chairperson, who then made the final decision.

Board and Committee meetings

39. According to paragraph 2.15 of the Audit Report, the attendance rates of some Board Members were low. During the period from April 2007 to September 2008, a Member attended only one (11%) of the nine Board meetings held. Another Member attended only four (44%) of the meetings. Five Members attended less than 40% of the Committee meetings. Paragraphs 2.17 and 2.20 also pointed out that although the attendance rates of some Board/Committee Members were low, they were still re-appointed. The Committee enquired:

- about the measures that would be taken to increase attendance rates; and
- why some Members were still re-appointed despite their low attendance.

40. The **Chairperson, EOC**, replied that:

- the low attendance of Board Members had all along been a difficult problem to resolve, since most of the Members had other commitments. Sometimes meetings had to be cancelled in view of the low attendance. In future, the EOC would issue reminders to those Members who failed to attend meetings for several times; and
- the EOC had provided the attendance rates of Members to the CMAB for its consideration. The EOC had also requested the CMAB to consider appointing persons who had closer background or relationship with the work of the EOC as Board Members.

41. The **Secretary for Constitutional and Mainland Affairs** said that the CMAB had recently appointed the new term of EOC Board Members. In appointing the Members, various factors had been fully considered, including the attendance rates of incumbent members, members' abilities, expertise, experience and commitment to public service. The average attendance rate of the seven re-appointed Members at Board meetings in the past few years was 73%. The CMAB would continue to take into account these factors in appointing suitable persons in future.

42. According to paragraphs 2.28 and 2.29 of the Audit Report, the EOC at present adopted a "one-tier reporting system", although the HAB advocated the two-tier reporting system for advisory/statutory bodies which had a high degree of management and financial autonomy, extensive executive powers in matters of public interest, or were responsible for the control and disbursement of substantial public funds. The Committee asked:

- why the EOC still adopted a "one-tier reporting system", despite that it met the above criteria;
- whether the EOC would consider adopting a two-tier reporting system; and
- about the CMAB's views on the matter.

43. The **Chairperson, EOC**, and the **Director (Planning and Administration), EOC**, replied that:

- the EOC had all along adopted a "one-tier reporting system", which required a Member to declare and report a conflict of interests only when he became aware of it. This was probably because the EOC had followed the stipulations under sections 3 and 13 of Schedule 6 of the Sex Discrimination Ordinance ("SDO") regarding disclosure of interests; and
- at a EOC meeting held in 1996, the HAB advised that since the EOC did not have extensive influence over policy and financial matters, a "one-tier reporting system" should suffice. Having said that, the EOC would consider whether a two-tier reporting system would be adopted, and the Board would discuss the matter in due course.

44. The **Secretary for Constitutional and Mainland Affairs** said that the CMAB considered the audit recommendation justified, and had already sent a letter together with the relevant documents to the EOC, inviting it to consider adopting a two-tier reporting system which was a more comprehensive system for declaring conflict of interests.

Memorandum of Administrative Arrangements ("MAA")

45. According to paragraphs 2.35 to 2.37 of the Audit Report, there had been discussions about proposals to amend the MAA since April 2004. However, up to January 2009, agreement between the CMAB and the EOC had not yet been reached, and the MAA was outdated. The Committee asked why it was so difficult to reach an agreement, and when the amendments were expected to be finalised.

46. The **Secretary for Constitutional and Mainland Affairs** said that:

- in past discussions, there were different views between the HAB and the EOC regarding whether approval by the HAB was required before the Chairperson embarked on overseas duty visits. The EOC was of the view that a notification to the HAB would suffice. Hence, amendments to the MAA had not been finalised;
- after the CMAB took over the responsibility of overseeing the EOC in July 2007, its primary task was to prepare for the enactment of the Race Discrimination Ordinance and the related follow-up work thereafter. In 2008, the CMAB initiated discussion with the EOC on the amendments to the MAA, and the discussion had reached the final stage; and
- recently, a revised draft MAA had been sent to the EOC, incorporating changes in circumstances such as the use of the envelope approach in funding arrangement and the change of policy bureau that oversaw the EOC. The EOC would finalise the MAA with the CMAB as soon as practicable. In future, the CMAB would take timely action to update the MAA with the EOC, so as to reflect changing developments and circumstances.

47. The **Chairperson, EOC**, added that all relevant issues regarding the amendments to the MAA had been resolved. The EOC would finalise the MAA with the CMAB, pending approval of the Administration and Finance Committee.

Life insurance coverage for the Chairperson

48. According to section 1 of Schedule 6 of the SDO, the Chief Executive of the HKSAR "shall determine the remuneration and the terms and conditions of appointment of the Chairperson". However, paragraph 7.6 of the Audit Report revealed that, in the "Memorandum on Terms and Conditions" attached to the Chairperson's appointment letter dated 15 December 2004, there was no mention about the provision of life insurance coverage. The Committee asked whether the Chairperson was aware that he was not entitled to the life insurance coverage before Audit pointed out the matter.

49. The **Chairperson, EOC**, replied that:

- in June 1997, the EOC Board endorsed a proposal for the provision of death and disability benefits to the staff of the EOC with an insured sum amounting to 36 months of the basic salary. Accordingly, the EOC took a group life insurance scheme for its staff and the Chairperson. The insurance was not tailored-made for the Chairperson, but applicable to all staff of the EOC;
- since then, the insurance policy had been taken out year after year for all his predecessors and himself, except one Chairperson who had exceeded the maximum age limit for the benefits. He therefore had not purposely checked whether he was entitled to this life insurance benefit according to his terms and conditions of appointment; and
- as there was indeed an omission on his part, he accepted the audit recommendation that he should seek the required approval from the Administration.

50. As the Director (Planning and Administration) was the secretary to the Board and responsible for administration and personnel matters, the Committee asked whether he had ever reminded the Chairperson or the Board that approval from the Chief Executive of the HKSAR was required for the provision of life insurance coverage.

51. The **Director (Planning and Administration), EOC**, said that since the Board approved the provision of life insurance in 1997, and the EOC had all along arranged for the Chairpersons to join the group life insurance scheme as for other EOC staff, he was not aware of this omission. In fact, the scheme was introduced by a former Chairperson, and at that time there was also a CEO responsible for managing the day-to-day business of the EOC. Nevertheless, as secretary to the Board, he also had responsibility in the matter.

52. Since the provision of life insurance to the Chairperson was not properly authorised, the Committee asked about the follow-up actions that would be taken by the CMAB and the EOC, and whether the Chairperson would consider refunding the premium paid to the EOC.

53. The **Secretary for Constitutional and Mainland Affairs** said that the Chairperson of the EOC had earlier written to the CMAB to follow up the matter, and he had already replied to him. The CMAB was of the view that the EOC Board, with new Members taking up appointment in May 2009, should first review the matter as a whole.

54. The **Chairperson, EOC**, said that he held an open attitude as to whether any refund was required. He would seek the views of the Administration and the Board on the matter. However, considerations had to be given to the fact that the life insurance scheme had been provided to all the former Chairpersons, so that a consistent and fair decision could be made.

D. Corporate culture on the use of public funds

Duty visits outside Hong Kong

55. According to paragraphs 4.9 and 4.10 of the Audit Report, the delegation for the Beijing visit comprised 18 persons, including the Chairperson, eight Board Members and nine senior staff, with a total expenditure amounting to \$161,000. Given that public entities were expected to observe the "moderate and conservative" principle in making decisions about sensitive expenditure such as duty visit expenses, the Committee asked:

- about the objectives of the visit;
- why it was necessary to have such a large delegation, among which nine were senior staff; and
- why it was necessary to arrange the Chairperson and Board Members to live in hotel rooms of higher standards and rates, and about the differences in the size and facilities of the three different standards of hotel rooms hired, viz. Ambassador Suite, Executive Room and Standard Room.

56. The **Chairperson, EOC**, replied at the public hearing and in his letter of 27 May 2009 in *Appendix 11* that:

- the objective of the Beijing visit was mainly to share experience and establish network. The arrangement of the delegation largely followed that of a similar visit to Beijing in 1997 led by a former Chairperson;
- since all Board Members including himself were just newly appointed to the EOC in 2005, the visit provided a good opportunity for new Board Members to understand each other, get familiar with the work of the EOC and learn from the practices in other organisations on protection of individuals' rights and empowerment issues for women and persons with a disability, etc;

- the participation of senior staff was also important as part of their continuous training and development. He had arranged nine staff from various divisions to join the delegation, provided that the daily operation of the EOC would not be adversely affected. The nine staff included the Director (Planning and Administration), Director (Operations), Head, Corporate Communications and Training, Head, Policy and Research, Chief Equal Opportunities Officer (Operations), Senior Training Officer, Senior Corporate Communications Officer, Corporate Communications Officer and Assistant Legal Counsel;
- better accommodation had been provided for him and Board Members because they did not receive any allowance for the trip. He was also provided with a larger room with working space for meetings, following previous arrangement for a visit to Beijing. The "Ambassador Suite" that he lived in was actually the cheapest suite among the suites available in the hotel (\$2,880 per night). The differences in the size and facilities of the three different standards of hotel rooms were provided in item (c) of **Appendix 11**; and
- he agreed with the audit observations that the Chairperson, Board Members and staff could all have been provided with Standard Rooms. With hindsight, past practice might not be the best practice. Meetings with colleagues could have been held in other business centres or even in the hotel lobby if necessary.

57. The Committee also requested the EOC to provide the following information relating to duty visits undertaken by the current and previous Chairpersons:

- among the 26 duty visits made by the EOC between April 2005 and December 2008 (Note 8 in paragraph 4.1 of the Audit Report referred), the number of duty visits involving the Chairperson;
- the respective number, place, purpose and benefits of the duty visits made by two former Chairpersons, namely Dr Fanny CHEUNG Mui-ching and Ms Anna WU Hung-yuk, during their tenure at the EOC; and
- whether any former EOC Chairpersons had made any duty visits to Beijing during their tenure; if so, what the standard and rate of hotel accommodation were.

58. The **Chairperson, EOC**, stated in his letter of 27 May 2009 that:

- among the 26 duty visits made by the EOC between April 2005 and December 2008, 13 duty visits involved the Chairperson. Details were set out in Appendix A to **Appendix 11**;
- there were 18 and 19 duty visits made by Dr Fanny CHEUNG Mui-ching and Ms Anna WU Hung-yuk respectively. The places and purposes of their respective visits were set out in Appendices B and C of **Appendix 11**. The benefits of the duty visits in general included understanding the latest development and trends in human rights and equal opportunities, exchanging views on these issues, and explaining the EOC's operational experience in implementing the anti-discrimination legislation to overseas counterparts and networking; and
- there were three duty visits to Beijing made by Dr Fanny CHEUNG Mui-ching and Ms Anna WU Hung-yuk during their tenure. For the visit in March 1997, apart from the Chairperson, four Board Members and 13 staff went on the trip. The Chairperson's hotel room was upgraded to an executive suite (\$450 per night). For the other two visits, there was no other delegation member. Details were set out in item (d) of **Appendix 11**.

59. Regarding the staff lunch expense of \$540 incurred before departing for Beijing and paid by the EOC (paragraph 4.14(d) of the Audit Report referred), the Committee queried the EOC's rationale for paying this private expense out of public funds, and enquired about Audit's observations on the matter.

60. The **Chairperson, EOC**, explained that for this trip, the EOC had not paid subsistence allowance to its staff and, instead, paid for the duty visit expenses on an actual basis. Hence, the lunch expense was paid in lieu of the subsistence allowance to which the staff were entitled for that day. If subsistence allowance was paid to each staff concerned, the expenditure would be far more than the actual lunch expense claimed. The **Director (Planning and Administration), EOC**, also added that the EOC's decision to pay for the expense was based on its interpretation of the payment of subsistence allowance applicable to the civil service.

61. The **Director of Audit** said that as a matter of principle, this lunch expense incurred in Hong Kong before commencement of the trip was a private expense, and public money should not be used to cover such expense, despite the fact that the EOC could achieve savings by forgoing the payment of subsistence allowance to staff.

62. In view of the EOC's explanation and Audit's observations, the Committee enquired:

- about the civil service rules and regulations governing claims for overseas duty expenses, including those for hotel accommodation and meals; and
- whether the staff lunch expense incurred on the day of departure from Hong Kong but before commencement of the official programme was reimbursable under the relevant civil service regulations.

63. The **Secretary for Financial Services and the Treasury** replied in his letter of 27 May 2009 in *Appendix 12* that:

- costs incurred by a civil servant on duty visits outside Hong Kong, including those for hotel accommodation and meals, were covered by the Government in a manner as set out in the Civil Service Regulations ("CSR") 710, 713 and 714;
- CSR 713 stipulated that the civil servants making such duty visits would be eligible for a subsistence allowance of a specified rate from the night following arrival in the first place of visit up to and including the night before departure from the last place of visit. This allowance was intended to cover accommodation, meals, laundry charges, casual entertainment, travelling expenses within town and all minor incidental out-of-pocket expenses. In addition, CSR 714 allowed for the reimbursement of reasonable expenses incurred directly as a result of the officer's performance of duty outside Hong Kong, e.g. visa, Internet charges and airport tax; and
- regarding the question of whether lunch expense incurred on the day of departure from Hong Kong but before commencement of the official programme was reimbursable, the abovementioned regulations had provided the guidelines. The subsistence allowance, which was intended to cover meal and other expenses incurred during duty visits, was only payable from the night following arrival in the place of visit (CSR 713(2)). It was hence the intention that expenses incurred before arrival at the destination would not be covered. Since the lunch expense in question did not fall into the category of expenditure reimbursable under CSR 714(1) as well, it was therefore not reimbursable in the civil service.

64. Audit also pointed out in paragraph 4.16 of the Audit Report that the EOC did not seek the Board's prior approval for two business trips to Macao in mid-2007. The Committee asked why no prior approval of the Board was obtained. The **Chairperson, EOC**, admitted that this might be due to an oversight. These two day-trips involved a small amount of expenditure, mainly on travelling expenses.

65. Regarding the Sweden visit in September 2007, referred to in paragraphs 4.19 to 4.21 of the Audit Report, the Committee asked:

- how Organisation A's work was related to that of the EOC, and about the benefits gained from the trip;
- why only one senior staff accompanied the Chairperson on the visit, as opposed to nine senior staff in the Beijing visit in 2005;
- why the Chairperson had claimed reimbursement for the two meals (i.e. lunch of \$59 on 1 September and dinner of \$163 on 7 September 2007) which were not supported by invoices or bills as required by the Human Resources and Administration Manual (paragraph 4.23 of the Audit Report referred);
- why the visit team used an expensive means of delivery, i.e. the service of a courier firm, to send back to Hong Kong the books and publications received (paragraph 4.24 of the Audit Report referred); and
- why the Board was not informed of the potentially sensitive additional hospitality items scheduled for 1 and 2 September 2007 (paragraph 4.27 of the Audit Report referred), and when the EOC was informed of the two items.

66. The **Chairperson, EOC**, responded at the public hearing and in his letter of 27 May 2009 that:

- Organization A was the Swedish Institute ("SI"), which was a public agency established to increase knowledge of and interest in Sweden worldwide. In January 2007, the SI jointly organised a large scale seminar with the Swedish Consulate, The Chinese University of Hong Kong and the EOC on "Advancement in Gender Equality - The Sweden and Hong Kong Stories". The seminar had achieved considerable success and was well attended by over 300 participants from different sectors of the society. In September 2007, the SI wished to have further exchanges with the EOC and extended an invitation to the Chairperson of the EOC to visit Sweden on a study visit programme which covered issues concerning gender equality and disability policy. After the visit, learning points and reflections from the visit were reported to the EOC Board at a meeting via EOC Paper No. 34/2007 and

posted on the EOC's website;

- only the Chief Legal Counsel accompanied him on the trip. Since Sweden was the most advanced country in the promotion of equal opportunities and human rights, the Chief Legal Counsel would be able to gain a more in-depth understanding in these aspects through this training;
- regarding the two meals taken by him, Audit rightly pointed out that there were no receipts to support the claims. Hence, he had paid the two meals out of his own pocket;
- he had instructed the Chief Legal Counsel to deliver the publications, weighing 13 kilograms, by courier. The EOC agreed with the audit recommendations that the most economical means should be used for delivery of the materials, and electronic copies should be obtained if possible. However, whether the most economical means could be used depended on the circumstances at that time, e.g. time available for identifying other means of delivery;
- the EOC received a draft programme of visit via e-mail from the Swedish Consulate on 24 August 2007. The draft programme showed the item "Excursion by boat" for 2 September. Nothing was shown for 1 September. The final programme was hand-delivered by the Swedish Consul on 29 August 2007 at a pre-departure meeting with the Chairperson. In the final programme, an item "Sightseeing in Stockholm together with a licensed guide" was shown for 1 September, and another item "Excursion by boat in the archipelago" with representatives of related organisations was shown for 2 September; and
- he had not thought about informing the Board of the two additional hospitality items. The EOC accepted the audit recommendation that such items should be brought to the Board's attention. Learning from this experience, the EOC would compile a duty visit manual as guidance for its staff, which would include a reminder regarding the reporting of hospitality items.

67. Regarding the delivery of books and publications by courier, **Mr Herman POON, Chief Legal Counsel, EOC**, added that before his departure, the Personal Assistant of the Chairperson had provided him with a courier account. He therefore requested the courier firm to deliver the materials back to Hong Kong in accordance with the office's arrangement, without considering whether it was the most economical means of delivery. The Committee then enquired about the EOC's guidelines on the use of the courier account.

68. The **Chairperson, EOC**, said at the public hearing and replied in his letter of 27 May 2009 that:

- courier service was to be used on a need basis when circumstances required. Since its formation in 1996, the EOC had engaged courier services twice for delivering documents/files back from overseas, including the delivery from Sweden;
- contact telephone numbers and the EOC's account numbers opened at three existing courier companies on the Suppliers' List were provided to the Chief Legal Counsel by his Personal Assistant, together with other related information regarding the Sweden visit, such as air tickets, programme of the visit and hotel accommodation arrangements, as an information package for use when necessary or upon emergency; and
- spending \$6,400 on delivering 13 kilograms of books and publications was indeed too expensive. The duty visit manual to be compiled would include a reminder on the use of economical means for the delivery of materials obtained during duty visits, as well as other relevant recommendations made by Audit.

69. The Committee noted from paragraph 4.30(a) of the Audit Report that the EOC would revise guidelines for the reimbursement of meal expenses of the Chairperson and Board members to facilitate the determination of the reasonableness of the expenses, and asked whether this had been done.

70. The **Chairperson, EOC**, stated in his letter of 27 May 2009 that:

- currently, reasonable meal expenses of the Chairperson and Board Members incurred on duty visits would be reimbursed on an actual expenditure basis taking into account the purpose and nature of the duty visits; and
- the EOC accepted the audit recommendation and would revise the guidelines by setting financial limits for meals taken by the Chairperson and Board Members during duty visits. To avoid ambiguity and for the ease of administration, the rate to be applied would follow that of the civil service, which was already applicable to the EOC staff under existing policy. The EOC Board would be asked to endorse the revised guidelines as soon as possible.

Seminars

71. According to paragraph 5.8 of the Audit Report, the original budget of the Seminar held on 24 January 2008 was trimmed by 30% from \$500,000 to \$350,000, as a result of queries raised by Board Members. The Committee asked whether the large scope for economy that existed in the original budget reflected that the budget preparers had not been prudent in the use of public funds, and about the measures that would be taken to ensure that strict economy would be exercised in the planning of future events.

72. **Dr Ferrick CHU, Head, Policy and Research, EOC, and the Chairperson, EOC,** said that:

- the Seminar was organised to review the impact of the Disability Discrimination Ordinance ("DDO") since its implementation 10 years ago. Hence, a higher standard comparable to similar seminars organised for gender issues was adopted in preparing the original budget. The budget also took into account the possible increase of 15% of the rental charge for the venue;
- Board Members subsequently deliberated the budget and advised further cost cutting with respect to specific budget items. The use of a VIP room with internet and computer facilities for speakers and panellists was cancelled at the request of Board Members, resulting in a saving of about \$20,000;
- the original budget also included the cost for the construction of a 1:12 ramp, which was in line with the requirements under the DDO, for use by two wheelchair speakers to get on the stage. Eventually, after consulting the speakers concerned, the EOC decided to use a ramp provided free of charge by the venue management. Together with the deletion of certain backdrop items and set-up costs, this resulted in a saving of \$50,000;
- further, instead of providing tailor-made souvenirs and seminar kits to the speakers and participants, standard souvenirs and seminar folders were provided, and the costs were mostly absorbed by the EOC office; and
- the EOC accepted that in preparing budgets, certain items were nice to have but might not be essential. It would be a good practice to make a distinction in the budgets between essential and "desirable non-essential" items, so as to facilitate the Board in making informed decisions.

73. The Committee noted from paragraph 5.7 of the Audit Report that Board Members were informed that the Seminar was well received and rated highly by participants, and enquired about the evaluation results of the Seminar. The **Chairperson, EOC**, stated in his letter of 27 May 2009 that a total of 61 completed evaluation forms were received after the Seminar. An analysis of the evaluation results was provided in item (j) of *Appendix 11*.

Purchases and other administrative issues

74. According to paragraphs 6.12 and 6.13 of the Audit Report, the EOC purchased 32 air purifiers at a cost of \$78,000 between mid-2005 to mid-2007. However, Audit could not find on record any objective data indicating that the air quality of the EOC office was poor. On the contrary, a report by the building management showed that the air quality of the EOC office was mostly considered "excellent". The Committee asked why so many air purifiers were needed in an office with "excellent" air quality.

75. The **Director (Planning and Administration), EOC**, and **Miss Gloria YU, Senior Equal Opportunities Officer (Administration and Personnel), EOC**, explained that:

- the purchases were made in response to staff's request. There was a real need at that time because certain staff had contracted upper respiratory infection and pneumonia, and some were even hospitalised. It was noted that the number of staff taking sick leave had increased substantially;
- to ascertain whether there was a need to purchase air purifiers, the EOC asked the building management to carry out a free air quality test. However, the test could not provide information on the level of bacteria or virus which the EOC aimed to improve. Thus, air purifiers which specified that they could inactivate certain types of bacteria and virus were purchased, balancing the cost of engaging further tests and the cost of the air purifiers; and
- after the purchase of the air purifiers in 2007, the number of sick leave days had reduced by 11% as compared with the previous year, and by 21% in the following year.

76. The **Chairperson, EOC**, also provided details of the reasons for purchasing the air purifiers and information on sick leave from April 2004 to March 2009 vide his letter of 27 May 2009 in item (n) of *Appendix 11*.

77. The Committee further questioned why the EOC had not informed Audit of the reduction in sick leave days to justify the purchase of air purifiers. The **Director (Planning and Administration), EOC**, and the **Senior Equal Opportunities Officer (Administration and Personnel), EOC**, responded that when Audit enquired about the purchases, the EOC staff had mentioned the improvement in sick leave, but there were no concrete figures available at that time. Hence, the relevant figures were only provided at the public hearing as an illustration. Having said that, there was no evidence to prove that the reduction in sick leave was directly attributable to the use of the air purifiers.

78. According to paragraph 6.10 of the Audit Report, as at October 2008, the video conferencing system (at a cost of \$105,500) had been lying idle for 18 months and had never been used since its purchase in May 2007. The Committee asked why the system was purchased and whether the system had been used after October 2008.

79. The **Chairperson, EOC**, and the **Senior Equal Opportunities Officer (Administration and Personnel), EOC**, said that:

- the system was purchased to facilitate communications and training needs arising from the pending enactment of the Race Discrimination Bill at that time. It was expected that there would be frequent liaison with overseas expertise and ethnic minorities who would participate in the EOC's seminars and conferences. However, since the legislative timetable had been postponed, the system had not been utilised; and
- the system had been used on two occasions in late 2008 in the EOC's conference rooms, in connection with the training and public consultation work relating to the race law. The movable unit of the system could cater for internal communications for participants in different rooms. The EOC expected more usage in 2009 and in the future, particularly in the sharing of experience with overseas counterparts on cases relating to race discrimination and other anti-discrimination legislation.

80. It appeared to the Committee that all the above instances had demonstrated the lack of a corporate culture in the EOC on the prudent use of public funds. The Committee enquired:

- whether the Chairperson had adopted the "moderate and conservative" principle in making expenditure decisions;
- whether the Director (Planning and Administration) had played the role of a gatekeeper in ensuring the prudent use of public funds; and

- about the measures and action plan that the EOC would adopt to promote good practices to ensure the prudent use of public money.

81. The **Chairperson, EOC**, said at the public hearing and in his letter of 27 May 2009 that:

- he had always observed the "prudent, necessary and reasonable" principle in using public money. The Director (Planning and Administration) was responsible for formulating and updating relevant guidelines for compliance by staff. As the Chairperson, he was ultimately responsible for the use of funds of the EOC, and would take the lead to ensure that all staff were aware of their responsibility;
- a working group comprising Board Members would be set up to review spending and procurement procedures and make necessary improvements to the procedures to ensure the prudent use of public money; and
- briefings had been held with relevant staff regarding the proper use of public money, particularly on:
 - (a) staff's duty and accountability to ensure the prudent use of public money;
 - (b) the need to clearly establish the need for a purchase before any purchase was made;
 - (c) the need to strictly adhere to the procedures stipulated in the Procurement of Stores and Services Manual ("PSSM") and ensure that proper documentation was provided. In those instances where the relevant requirements could be waived, the particulars of the cases and explanation should be provided; and
 - (d) the need to immediately report to the supervisor any inadequacies or practical difficulties in implementing the stores and procurement procedures.

82. The **Director (Planning and Administration), EOC**, said that he should be the major gatekeeper in ensuring that expenditure decision was made in accordance with the "moderate and conservative" principle. However, some expenditure decisions were made by the Chairperson or the Board, e.g. the number of persons participating in a duty visit, and he could only offer advice for their consideration.

83. According to paragraph 7.9 of the Audit Report, two litigation cases, brought by former employees against the EOC, were time-consuming and had significant financial consequences. In dismissing Case A, the judge remarked that the claims were "completely without merit". The Committee asked whether the EOC had closely monitored the case during the legal proceedings and applied for strike-out of the case, with a view to concluding the case as early as possible, and about the lessons that had been learnt from these two litigation cases.

84. The **Chief Legal Counsel, EOC**, said that the EOC had attempted to apply for strike-out of the case. However, in view of the judge's indication that the application might not be successful, the EOC discussed with its legal team and decided to withdraw the application. The progress of the case had also been reported to the Board and the Legal and Complaints Committee.

85. The **Chairperson, EOC**, said that he was very concerned about these two cases which were complex, expensive and time-consuming. He agreed that there should be a mechanism to monitor the case progress and the litigation fees. He had already instructed that all cases involving the EOC as a party should be handled by the Chief Legal Counsel. The Legal and Complaints Committee would also regularly follow up the case progress at its bimonthly meetings.

E. Internal Control, procurement and management of stores

86. In paragraph 6.3 of the Audit Report, Audit examined the 392 purchases made between April 2007 and September 2008, and found that there were some instances of non-compliance with the EOC's procurement requirements stipulated in the PSSM. The Committee enquired about:

- details of the steps and procedures involved in store procurement;
- the circumstances leading to the above non-compliance cases; and
- the specific measures that would be taken by the EOC to improve the procurement procedures.

87. The **Chairperson, EOC**, replied in his letter of 27 May 2009 that:

- the store procurement procedures were detailed in the PSSM. In brief, they included:

- (a) users to initiate a purchase request for goods/services and contact the general registry staff to start sourcing;
 - (b) designated general registry staff who kept the Suppliers' List to provide information of the suppliers to be invited for submission of quotations;
 - (c) another general registry staff to invite quotations according to the estimated purchase value;
 - (d) staff inviting the quotations to receive verbal quotations (written quotations would be received by a designated staff at the Personnel Office);
 - (e) a designated officer to perform random checking of the verbal quotations received;
 - (f) an officer to evaluate the quotations received;
 - (g) an officer to recommend the purchase; and
 - (h) a functional head to approve the purchase;
- 15 out of 28 identified non-compliance instances were minor repairs and alteration work in the EOC office. Efforts made to obtain more quotations were in vain. There was actual difficulty in obtaining three quotations on each occasion. For another 10 cases, the requirement to obtain three quotations could be waived according to the PSSM. In future, clear explanations would be given on the Purchase Requisition Forms. Besides, the practicability of the relevant rule on seeking the required number of quotations would be reviewed, making reference to the Government's Stores and Procurement Regulations;
 - the procedure of inviting suppliers by rotation from the Suppliers' List in most cases was not practicable because of low purchase value/quantity, infrequent purchase of the same good/service and sometimes a supplier "not due for invitation" was offering a promotional price. Also, relevant requirements in the PSSM might not be fully understood by supporting staff performing the supplier sourcing duties. A briefing had been held to explain the procedures and requirements to working staff. The relevant requirement would also be reviewed based on application experience;
 - the original grouping of supplier categories in some cases was not realistic. Some of them were too narrowly grouped and some categories that had not been used for years were still kept in the database. To rectify the situation, a review on the grouping of supplier categories had been done. Rarely used

groups were deleted and approval was obtained on categories with sole or limited suppliers. Updating of the Suppliers' List and supplier categories would be done at quarterly intervals in future; and

- the Director of Government Logistics would be invited to share with the EOC staff on important stores and procurement principles and areas that needed to be strengthened in the EOC.

88. According to paragraph 6.7 of the Audit Report, in October 2006, the EOC purchased 2,000 environmental bags at a cost of \$16,200 (\$8.1 each) for distribution as souvenirs to members of the public. Only 300 were distributed and 1,700 were kept in stock. Two months later, in December 2006, the EOC purchased another lot of 400 environmental bags, with some added features, at a cost of \$8,400 (\$21 each), for distribution at a seminar. In December 2007, a further lot of 400 with the same features were purchased at a higher cost of \$12,000 (\$30 each). The Committee asked:

- what the additional features of the environmental bags were, and why they were so essential for the purpose of the seminar;
- whether the environmental bags purchased in October 2006 and December 2007 were made by the same EOC staff;
- whether the staff were aware of the significant difference in order price for the last two purchases and the fact that there were still stocks available for use; and
- about the measures that would be adopted to improve stock management.

89. The **Chairperson, EOC**, said at the public hearing and in his letter of 27 May 2009:

- the environmental bags purchased in October 2006 were used as corporate gifts for promotional purpose. In December 2006, environmental bags with specific seminar features for the convenience of participants were procured. These bags had the additional design which allowed seminar participants to put their name card, pen and paper in different slots of the bag;
- he agreed that these additional features were not essential and strictly speaking, the EOC could have used the 1,700 environmental bags in stock for distribution at the seminar. It was not necessary to spend extra money on purchasing new environmental bags;

- purchases in October 2006 and December 2007 were requested and approved by different staff members. If the staff concerned were aware of the big difference in order price for procuring the 400 environmental bags, they might consider whether it was still necessary to purchase the bags; and
- at present, the Administration Section was responsible for managing office stationery, equipment and related stocks for internal use, whereas the Corporate Communications and Training Unit also kept certain stocks for external distribution. For improvement, the EOC would centralise all stock control. Staff making procurement requests and approving the requests should first consider the availability of existing stocks or alternatives before making any purchases.

90. As reported in paragraphs 6.18 and 6.19 of the Audit Report, the EOC purchased 50 extension sockets in April 2006 and another lot of 75 in May 2008 for replenishment. Audit found that as at December 2008, there were still 72 extension sockets in stock. Given that extension sockets were durable items, the Committee queried the need of keeping a large stock of the items, and asked who had approved these purchases.

91. The **Senior Equal Opportunities Officer (Administration and Personnel), EOC**, replied that she was responsible for purchasing the extension sockets, which would be used in case there was a sudden stoppage of electricity supply that might affect the operation of office equipment. In estimating the quantity required, she had assumed that each cubicle would be provided with one extension socket. With hindsight, she admitted that there was an over-estimation.

92. The **Director (Planning and Administration), EOC**, said that he had approved the purchase request in view of the reasons provided by the requesting officer. He agreed that since the extension sockets were durable items, it was not necessary to procure so many of them. The EOC would remind staff to clearly establish the need for an item before expenditure was incurred.

93. In view of the above inadequacies in the procurement of stores, the Committee asked about the specific measures that would be taken by the EOC to clearly establish the need for an item before expenditure was incurred.

94. The **Chairperson, EOC**, stated in his letter of 27 May 2009 that:

- in future, the process leading to a decision on purchase might include:
 - (a) consideration of alternatives or replacement by existing stock;
 - (b) checking of stock level and usage pattern;
 - (c) comparison of the reasonableness of the latest quoted price by making reference to the last purchase price/average purchase price; and
 - (d) obtaining further objective and technical advice to confirm a need; and
- the Purchase Requisition Form would be revised to allow more space to record reasons for purchase, any available alternatives, present stock level, last/average purchase price and estimated consumption, if applicable.

95. Regarding the disposal of surplus asset and the control of library materials, the Committee asked:

- whether the EOC had tried to explore whether any organisations were interested in having the conference table (costing \$150,000) and the "classic and accurate" clock (costing \$7,200) before they were disposed of (paragraph 6.24 of the Audit Report referred);
- whether the computer equipment referred to in paragraph 6.26(c) of the Audit Report had already been donated; and
- about the measures that would be adopted to improve the control of library materials (paragraphs 6.32 and 6.33 of the Audit Report referred).

96. The **Director (Planning and Administration), EOC**, and the **Senior Equal Opportunities Officer (Administration and Personnel), EOC**, said that:

- since the conference table was a tailor-made fixture and could not be used elsewhere, a contractor had been employed to dismantle and discard it. Efforts had been made to donate the clock to other organisations, such as universities, but such efforts were in vain probably because maintenance cost was involved in keeping the clock;
- the computer equipment had been donated to a Caritas organisation. Usable computer parts would be reassembled by them for use; and

- the EOC used to have a central area for placing library books in the old office, and a staff was assigned to handle the borrowing of library materials through a computerised library system. After moving to the new office, the books were placed under various divisions. Some books were in fact reference books or dictionaries kept by individual staff to facilitate their daily work. As the books were assets of the EOC, the EOC would conduct regular stock-taking exercises to track the location of the items. The procedures for borrowing and updating library materials would also be reviewed so as to strengthen the control of library materials.

F. Complaint handling procedures

97. According to paragraph 3.8 of the Audit Report, the EOC should, in accordance with the Australian consultants' recommendation, introduce a "complaint intake form" to indicate the Director (Operations)'s instructions as to the appropriate categorisation of the complaint and any special instructions in relation to investigation, conciliation or any other matter in the handling of the complaint. In February 2004, Board Members were informed, vide EOC Paper No. 5/2004, that the consultants' recommendations had been accepted and implemented. However, Audit examination in paragraph 3.10 showed that there were no "complaint intake forms" to indicate that proper initial intake decisions had been made by officers at an appropriate level, and the consultants' recommended practice was also not incorporated in the Internal Operating Procedures Manual ("IOPM"). The Committee asked why the consultants' recommended practice had not been implemented, and whether the Board was informed of the change of practice.

98. **Mr Joseph LI, Director (Operations), EOC**, replied that after the consultants' recommendation was made in 2002, a computerised Complaint Management System ("CMS") had been adopted to record the intake decisions. Hence, there was no physical "complaint intake form" as such. As the change was only an operational matter, the Board's approval had not been sought separately.

99. The Committee then requested the EOC to explain why and how the computerised CMS could replace the said form. The **Chairperson, EOC**, replied in his letter of 27 May 2009 that:

- the intake decisions were recorded in different documents under the current practice. There was no single "complaint intake form" placed in a complaint file to record and document the intake decision as recommended in the consultants' report;

- the intake of complaints was handled by the two Chief Officers in the Operations Division on a rotational basis. Case assignment basically followed a roster system. In the process, complexity and sensitivity of the issues as well as legal issues that might be involved were taken into consideration. More experienced officers were assigned with cases of complex nature. As such, there were adjustments in the sequence of case allocation to cater for special need. The special assignment arrangements were recorded by the assigning officer on the weekly roster sheets;
- to open a new case, the assigning officer registered an entry in the computerised CMS. The system generated a case number and opened a front page for recording key information. To complete the assignment, the following information must be entered: the names of the complainant, respondent and authorised representatives; initial actions taken or to be taken; relevant ordinance; ground of discrimination; areas of activities; unlawful act involved; special issues (e.g. overtime work, transfer, foreign domestic helper, prolonged sick leave); summary of the complaint; and the assignee (i.e. the case officer);
- a physical complaint file, which housed the complaint letter/form and document submitted by the complainant, would then be passed to the Chief Officer supervising the case officer. This supervising officer would then go through the materials and mark instruction and/or advice in the form of file minutes to the case officer (e.g. special circumstances relevant to the particular complaint, need for legal advice or higher level supervision); and
- at present, the decision and instruction appeared in different places. To accommodate the audit recommendation, the front page of the CMS would be expanded to record the initial and assignment decisions and the rationale behind them, which would then appear as a single document.

100. The Committee then invited Audit's comments on the complaint intake process mentioned above, as the EOC had not informed Audit of such details during the audit review. The **Director of Audit** responded in his letter of 4 June 2009 in *Appendix 13* that:

- according to the EOC's current practice, complaint intake decisions were recorded in different places, including the "weekly roster sheets", the "computerised CMS" and "file minutes";

- in Audit's view, the EOC's practice was not entirely satisfactory because it was inferior to the consultants' recommended practice mentioned in paragraphs 3.7 and 3.8 of the Audit Report which, if implemented, would provide clear documentation of the initial intake decisions tidily in one place (i.e. the "complaint intake form"). In considering this matter, one should also be mindful of the fact that the EOC Board Members were clearly informed of the acceptance and implementation of the consultants' recommended practice back in 2004; and
- the EOC now proposed that the front page of the CMS be expanded to record the initial and assignment decisions and the rationale behind them, which would then appear as a single document. Audit welcomed this proposal because it was tantamount to creating an electronic "complaint intake form". Properly implemented, it would serve the consultants' recommended purpose.

101. In paragraph 3.11 of the Audit report, Audit also pointed out that no investigation plans were prepared, contrary to the requirement of the IOPM. The Committee asked the reasons why the EOC had not paid due regard to the requirements in the IOPM.

102. The **Director (Operations), EOC**, said that the purpose of investigation plans was to set out the specific nature of the complaint, the complainant and respondent, the relevant legislation, etc. As the key components of the investigation plans would be incorporated into the first letters to respondents, and the letters would be passed to the Chief Officers for comments before issuance, it was decided at a divisional meeting in 2003 that there was no need to prepare separate investigation plans to avoid duplication of efforts. Since then, only less experienced officers were required to prepare investigation plans as part of their training, and senior officers were not required to do so. Despite this change, the IOPM had not been updated accordingly and hence Audit found that there was deviation from the IOPM.

103. The **Chairperson, EOC**, added that when the consultants completed their report in 2002, the EOC had only been established for a few years. As the EOC developed its own investigation procedures, it was noted that certain recommendations of the consultants could not be fully followed having regard to the circumstances in Hong Kong. In fact, complaint handling procedures were dynamic and changes were always required to match new development. Having said that, changes in operating procedures should have been brought to the Board's attention through regular reports submitted by the Operations Division.

104. According to paragraphs 3.14 and 3.15 of the Audit Report, the consultants' report also recommended that the EOC should establish a public register of conciliated settlements to assist in the settlement of complaints on appropriate terms. A settlement register had since been put on the EOC website reflecting the terms of settlement of successful conciliation for public information. However, the Committee noted that the settlement information for conciliation concluded after 2005 was not available in the settlement register on the EOC website, and asked why the settlement information was not available.

105. The **Chairperson, EOC**, and the **Director (Operations), EOC**, said that:

- the original purpose of establishing a public register of conciliated settlements was to promote the concept of conciliation among the community. However, in order to protect the confidentiality of the complainants and respondents, some key information had to be deleted when the cases were published on the website, rendering the information less useful as a reference. In recent years, people were more interested in learning about court cases handled by the EOC, and other relevant information through the EOC's publication "EO news"; and
- as the EOC handled about 200 settlement cases per year, it also faced manpower constraints if information on all typical settlement cases had to be publicised on the website. In the meantime, the EOC would review the format and contents of conciliated cases, with a view to refreshing the presentation of case outcomes on the EOC website, so that the information would be more meaningful to the users.

G. Performance reporting in Controlling Officer's Report

106. According to paragraph 8.7 of the Audit Report, the CMAB was working with the EOC to identify new performance targets/indicators to measure the outcome and productivity of the EOC. The Committee asked whether the CMAB had in the past regularly reviewed the performance indicators of the EOC, and about the new performance targets/indicators that might be adopted.

107. The **Secretary for Constitutional and Mainland Affairs** said that:

- as shown in Appendix J of the Audit Report, there were already over 10 performance targets/indicators of the EOC. In preparing for the financial estimates and resource allocation every year, the CMAB would also review the performance indicators of the EOC; and

- in identifying new performance indicators, the CMAB would take into account the practice of overseas counterparts of the EOC, as set out in Appendix K of the Audit Report. Among the suggested overseas examples, the CMAB considered it particularly worthwhile for the EOC to set indicators on the number/percentage of complaint cases settled through conciliation. As to other indicators, such as public awareness and customer satisfaction, the EOC might give further thoughts on them. The new performance targets/indicators would be reflected in the 2010-2011 COR.

H. Conclusions and recommendations

108. The Committee:

- notes that the key findings of the Director of Audit's Report ("Audit Report") are about the inadequacies in governance and administration of the Equal Opportunities Commission ("EOC"), which do not concern the EOC's performance in promoting equal opportunities and implementing the four anti-discrimination ordinances;
- considers that the inadequacies identified have revealed some underlying problems that are much more serious than what some of the inadequacies might seem if viewed individually and in isolation;
- expresses grave dismay and finds it inexcusable that:
 - (a) the Chairperson, as the full-time executive head of the EOC, has failed to provide the leadership required for the EOC to meet the standard of corporate governance and management expected of a publicly-funded statutory body, his handling of the draft Audit Report being a particularly telling example; and
 - (b) the Director (Planning and Administration), as the highest ranking staff responsible for the EOC's administrative matters, has failed to ensure that the EOC's internal control procedures, particularly those on procurement and management of stores, are properly complied with;
- expresses strong resentment at the EOC's lax control on expenditure and the lack of a corporate culture on the prudent use of public funds;

Handling of the draft Audit Report

- does not accept the way the Chairperson, EOC, had handled the draft Audit Report:
 - (a) the Chairperson received the draft Audit Report on 13 February 2009 and, without consulting the EOC Board Members, provided a response to the Audit Commission ("Audit") on 26 February 2009; and
 - (b) at the EOC meeting held on 19 March 2009, the Chairperson only verbally informed Board Members, without prior notice, under the agenda item "Any Other Business" that initial response had been provided to Audit "in view of the confidential requirements on the handling of the audit report and the pressing time schedule provided by the Audit Commission". It was only at the insistence of Board Members that a special meeting was held on 26 March 2009, one day before Audit's scheduled finalisation of the Audit Report, for them to discuss the EOC's response to the draft Audit Report. However, the draft Audit Report and the EOC's response to Audit were only tabled at the meeting on 26 March 2009, and Board Members had just about 30 minutes for reading the relevant documents before discussion took place;
- acknowledges the Chairperson's:
 - (a) concern over the possible breach of confidentiality requirements, as a result of which he had adopted a narrow interpretation of the "need-to-know" requirement in handling the draft Audit Report; and
 - (b) admission that with hindsight, he should have engaged the Board at an earlier stage after receipt of the draft Audit Report;
- considers that the above demonstrates a lack of trust and partnership between the Chairperson and Board Members, which is not conducive to the effective functioning of the EOC;
- finds it appalling, as revealed by their exchange of views at the meeting on 26 March 2009, that the Chairperson, certain Board Members and the Director (Planning and Administration) considered that some of the audit findings were trivial and insignificant and, in considering the EOC's response to the audit findings, their concern was more from the public relations perspective, leaving one with the impression that they were not serious in accepting the audit findings as genuine problems which needed to be addressed;

- invites the Director of Audit to consider advising an auditee which is a non-governmental organisation more positively of the need to seek its governing body's endorsement of the organisation's response to the draft Audit Report, so as to ensure that the governing body is engaged in the consideration of its findings;

Corporate governance

Governance structure

- notes the reservations raised by some Legislative Council Members at the meeting of the Panel on Home Affairs in January 2006 regarding the proposal on separating the posts of the Chairperson and the Chief Executive Officer ("CEO") of the EOC, but expresses concern that there has been a lack of progress on the proposal since that meeting;
- considers, without intending to pre-empt in any way the deliberation by the Panel on Constitutional Affairs on the separation of the posts of the Chairperson and the CEO, that taking into account the results of past reviews conducted by three different parties (i.e. the EOC, the Independent Panel of Inquiry and the Home Affairs Bureau ("HAB")) and the need to strengthen corporate governance in the light of problems that have been identified, there may be advantages in separating the two posts as this could provide a more effective system of checks and balances and avoid the risks of excessive concentration of power in the Chairperson;
- acknowledges that:
 - (a) the Secretary for Constitutional and Mainland Affairs:
 - (i) has put forward three options for separating the posts of the Chairperson and the CEO for consultation with the Panel on Constitutional Affairs in June 2009, and has undertaken to bring the matter to a conclusive stage having regard to the views of the Legislative Council Members, the EOC and relevant quarters of the community;
 - (ii) will consider allocating funding to the EOC to engage external auditors (with expertise in management) to follow up the various issues identified by Audit, and to enhance the EOC's internal financial control and management capabilities; and

- (iii) will recommend to the Chief Executive of the Hong Kong Special Administrative Region ("HKSAR") that the EOC Chairperson for the term starting from January 2010 should be recruited through open recruitment procedures; and
- (b) the EOC's Administration and Finance Committee and the respective convenors and deputy convenors of the other three Committees will be tasked with the responsibility for overseeing corporate governance and compliance matters as well as following up the audit recommendations;
- urges:
 - (a) the Secretary for Constitutional and Mainland Affairs to expeditiously put forward a final proposal on separating the posts of the Chairperson and the CEO after consulting the Panel on Constitutional Affairs, the EOC and other stakeholders, so as to bring the matter to a satisfactory conclusion; and
 - (b) the EOC to consider engaging external accountants to conduct compliance and management audit if necessary;

Board and Committee meetings

- expresses serious concern and finds it unacceptable that:
 - (a) there were shortcomings in matters relating to EOC Board and Committee meetings, including the following:
 - (i) the attendance rates of some Members were low. A Member attended only one (11%) of the nine Board meetings held during the period from April 2007 to September 2008. Another Member attended only four (44%) of the meetings. Five Members attended less than 40% of the Committee meetings;
 - (ii) although the attendance rates of some Board/Committee Members were low, they were still reappointed;
 - (iii) on several occasions, the meetings continued despite a lack of quorum;
 - (iv) there were no guidelines on the need for rescheduling cancelled meetings to ensure that time-critical issues were deliberated in a timely manner; and

- (v) on average, minutes of meetings were only issued to Members 46 days after the meetings; and
- (b) the EOC has adopted a "one-tier reporting system" for its Members to declare and report conflicts of interests, although it meets the criteria for adopting a "two-tier reporting system" set out in the guidelines issued by the HAB for advisory and statutory bodies;
- acknowledges that:
 - (a) the EOC has undertaken to:
 - (i) establish a central register of attendance to facilitate monitoring of Members' attendance at Board/Committee meetings, and issue reminders on the importance of attendance where necessary;
 - (ii) take into account Members' attendance when their reappointments to the EOC Committees are being considered;
 - (iii) ensure that the requisite quorum is present throughout the meetings;
 - (iv) set appropriate guidelines on the need for rescheduling cancelled meetings;
 - (v) issue draft minutes of meetings within one month from the date of meeting; and
 - (vi) consider whether a two-tier reporting system will be adopted; and
 - (b) the Secretary for Constitutional and Mainland Affairs has undertaken to take into account the attendance rates of Members when their reappointments to the EOC Board are being considered;
- urges the EOC to consider publishing the attendance records of Board/Committee meetings in its annual reports;

Memorandum of Administrative Arrangements ("MAA")

- is surprised and expresses grave dissatisfaction that timely action had not been taken to update the MAA to reflect changing circumstances;

- acknowledges that the Secretary for Constitutional and Mainland Affairs has already provided a revised draft MAA to the EOC, pending approval of the EOC's Administration and Finance Committee, and has undertaken to take timely action to update the MAA in future as and when there are changes in circumstances;
- urges the Secretary for Constitutional and Mainland Affairs and the EOC to finalise the revised MAA without delay;

Life insurance coverage for the Chairperson

- expresses serious concern that:
 - (a) the EOC did not obtain the approval of the Chief Executive of the HKSAR for the provision of life insurance coverage for the Chairperson (including former Chairpersons), although according to section 1 of Schedule 6 of the Sex Discrimination Ordinance (Cap. 480), the Chief Executive "shall determine the remuneration and the terms and conditions of appointment of the Chairperson"; and
 - (b) the Director (Planning and Administration) of the EOC, as the senior management staff responsible for administration and personnel matters, simply followed past practices in arranging for the Chairperson to join the group life insurance scheme as for other EOC staff, and had not bothered to check whether the arrangement complied with the Chairperson's appointment requirements;
- acknowledges that the EOC has undertaken to take follow-up actions with the Constitutional and Mainland Affairs Bureau ("CMAB") regarding the provision of life insurance coverage for the Chairperson, and urges the EOC and the CMAB to expeditiously make a decision on how the matter should be followed up;

Corporate culture on the use of public funds

- finds it appalling and totally unacceptable that the EOC has not adopted the "moderate and conservative" principle in making expenditure decisions. The manifest lack of prudence is evident from the following instances relating to the use of public funds:

Duty visits outside Hong Kong

- (a) the EOC did not set financial limits on hotel accommodation and hospitality meals involving the Chairperson and Board Members on duty visits as would facilitate the application of the "moderate and conservative" principle for such sensitive expenses and help staff involved in the payment process determine the reasonableness of the expenses;
- (b) regarding the Beijing visit:
 - (i) the delegation, with a total expenditure amounting to \$161,000, comprised as many as 18 persons, nine of whom were senior staff;
 - (ii) although standard rooms were adequate for meeting basic accommodation needs and were reasonably comfortable, hotel rooms of three different standards were hired for the delegation, viz. an Ambassador Suite for the Chairperson (at \$2,880 per night), Executive Rooms for Board Members (at \$1,500 per night) and Standard Rooms for staff (at \$940 per night). Moreover, as the visit was not a working visit and was mainly for networking and training purpose, the need for an Ambassador Suite with meeting facilities might not be justifiable;
 - (iii) the EOC paid \$15,200 for a hospitality dinner attended by 28 persons (i.e. \$540 per person), but there was no information on record about who attended the dinner, and the number and identities of guests involved;
 - (iv) the EOC paid the expense of \$540 for a lunch taken by the Chairperson and eight EOC staff at a restaurant near the EOC office on 11 July 2005, which was clearly a private expense that should not be paid out of public funds, given the fact that the duty visit had not even commenced;
 - (v) the EOC's explanation for paying the aforesaid staff lunch expense of \$540 (i.e. in lieu of the subsistence allowance to which staff were entitled for that day) is unacceptable, given that the purpose of a subsistence allowance is to cover duty visit expenses (outside Hong Kong) and any reimbursement of a private expense (incurred in Hong Kong) in lieu of the allowance is clearly against that purpose; and

- (vi) although prior approval is a key control, at the time of the Beijing visit, approval from Board was not required for business trips involving the Chairperson and Board Members;
- (c) although the Board's prior approval is required since September 2005 (i.e. after the Beijing visit), the EOC did not seek the Board's prior approval for two duty visits involving day-trips to Macao in 2007, and covering approval was obtained in 2009 only after the matter was raised by Audit;
- (d) regarding the Sweden visit:
 - (i) for two of the meals taken by the Chairperson during the duty visit, there were no invoices or bills on record to support the payments;
 - (ii) the visit team spent \$6,400 on the service of a courier firm to deliver to Hong Kong the publications (weighing 13 kilograms) received during the visit, but there was no documented reason for not using other more economical means of delivery;
 - (iii) there were confusions over the payment of hotel charges and, despite the confusions, the EOC did not take adequate follow-up action to clarify the issue and meet its commitment;
 - (iv) the visit team did not bring to the Board's attention the addition to the visit programme of two hospitality items (i.e. "Sightseeing in Stockholm with a licensed guide" and "Excursion by boat in the archipelago") which were potentially sensitive items; and
 - (v) due to a miscalculation, the EOC officer of the visit team was overpaid an amount of \$514, representing one night of subsistence allowance less the relevant deductions;

Seminars

- (e) the large scope of economy that existed in the original budget (prepared for the Seminar held on 24 January 2008) suggested the lack of a sense of economy on the part of the EOC staff preparing the budget;
- (f) the EOC did not identify available alternatives (together with their relative merits and costs) in the budgets to facilitate Board Members' consideration, and the ramp provided free of charge by the venue management was a case in point;

- (g) no distinction was made in the budgets between essential and "desirable non-essential" items (together with their costs), and the absence of such information was not conducive to the making of informed decisions by Board Members;

Purchases and other administrative issues

- (h) 32 air purifiers were purchased between mid-2005 to mid-2007 without any objective data indicating that the air quality of the EOC office was poor. The Committee considers that the EOC's claim that the number of sick leave days had reduced after the purchase of the air purifiers was only an excuse made with the benefit of hindsight;
 - (i) the need for purchasing the video conferencing system was questionable in view of its low utilisation; and
 - (j) there were insufficient justifications for the EOC to pay the fine of \$320 on a traffic offence committed by its driver while on duty;
- acknowledges that the EOC has:
- (a) undertaken to strictly apply the "moderate and conservative" principle in making expenditure decisions on duty visits;
 - (b) reminded its staff to ensure that the relevant information is available on record regarding the EOC personnel and guests involved in hospitality meals;
 - (c) undertaken to revise the guidelines and set financial limits regarding hotel accommodation, hospitality expenses and meal expenses involving the Chairperson and Board Members, with reference to the level of subsistence allowance applicable to the civil service. The EOC Board will be requested to endorse the revised guidelines;
 - (d) undertaken to review the expenditure decision regarding the staff lunch of 11 July 2005, and to draw up guidelines to guide future decisions in similar circumstances;
 - (e) undertaken to ensure that all business trips outside Hong Kong, including short trips to Macao, have the Board's prior approval;
 - (f) undertaken to compile a duty visit manual as guidance for its staff, which will include reminders on:

- (i) the need to support claims by invoices or bills;
- (ii) the use of economical means for the delivery of materials obtained during duty visits; and
- (iii) the need to report any additional hospitality items;
- (g) contacted Organisation A regarding the conflicting information on the hotel charges and is awaiting its response;
- (h) recovered from the EOC officer concerned the \$514 of subsistence allowance overpaid;
- (i) undertaken to formulate guidelines that will take into account the need to exercise strict economy in planning future events, and to clearly identify alternatives as well as "desirable non-essential" items in the budgets to facilitate Board Members' consideration;
- (j) undertaken to clearly establish the need for an item before expenditure is incurred;
- (k) undertaken to set up a working group comprising Board Members to review spending and procurement procedures and make necessary improvements to the procedures to ensure the prudent use of public money; and
- (l) recovered from the driver the traffic fine of \$320;
- strongly urges the EOC to adhere to the "moderate and conservative" principle in making expenditure decisions, and promote a corporate culture that emphasises prudence and economy in the use of public funds;

Internal control, procurement and management of stores

- finds it appalling and totally unacceptable that the EOC's internal control, procurement and management of stores are fraught with problems as set out below, and considers that the Director (Planning and Administration) of the EOC, being the head overseeing these functions, should be held responsible:
 - (a) despite the requirements stipulated in the Procurement of Stores and Services Manual, there were some instances of non-compliance with the EOC's procurement procedures;

- (b) there was a lack of proper management of stores, as follows:
 - (i) in October 2006, the EOC purchased 2,000 environmental bags at a cost of \$16,200 (\$8.1 each). Two months later, in December 2006, the EOC purchased another lot of 400 environmental bags, with some added features, at a cost of \$8,400 (\$21 each), despite the fact that there were 1,700 environmental bags in stock that could have served the purpose. In December 2007, a further lot of 400 with the same features were purchased at a higher cost of \$12,000 (\$30 each). The aforesaid purchases indicate that there was no centralised system to co-ordinate stock management;
 - (ii) a total of 40,000 staplers were purchased for distribution as souvenirs between March 2006 and March 2007. As at December 2008, there were still 23,000 staplers in stock; and
 - (iii) 50 extension sockets were purchased in April 2006 and another lot of 75 were purchased in May 2008 for replenishment, although they are durable items. As at December 2008, there were still 72 extension sockets in stock;
 - (c) for some asset items that were written off, there were no clear audit trails of how they were disposed of;
 - (d) there were shortcomings in the control of library materials; and
 - (e) the vehicle log books of the EOC were not properly maintained, contrary to the instructions relating to vehicle log books;
- acknowledges that the EOC has:
- (a) conducted a briefing with the relevant staff to remind them of the need to strictly comply with the EOC's procurement procedures, and will invite the Director of Government Logistics to share with staff on important stores and procurement principles and areas in need of improvement within the EOC;
 - (b) undertaken to review the relevant internal manual to highlight the requirement identified by Audit, and to incorporate conditions to be fulfilled and criteria to be observed in the procurement process;
 - (c) undertaken to centralise stock control and consider the availability of existing stocks or alternatives before any purchases. It will also use the environmental bags in stock for distribution at future seminars;

- (d) designated an officer to take charge of the disposal of assets, and to ensure that proper records are kept to provide a clear audit trail;
 - (e) undertaken to improve the control of library materials, including conducting annual stocktaking exercises, and strengthening the procedures for borrowing library materials, updating records and handling overdue library materials; and
 - (f) reminded its staff of the need to comply with the instructions relating to vehicle log books;
- urges the EOC to expeditiously implement the above to improve its internal control, procurement and management of stores;

Complaint handling procedures

- expresses dismay and finds it unacceptable that:
 - (a) there were no "complaint intake forms" to indicate that proper initial intake decisions had been made by officers at an appropriate level, despite the fact that in February 2004 Board Members were informed of the EOC's acceptance and implementation of a consultants' recommendation to introduce such forms;
 - (b) investigation plans were not prepared, contrary to the requirement of the EOC's Internal Operating Procedures Manual ("IOPM"). According to the Director (Operations) of the EOC, as the investigation plans would be incorporated into the first letters to respondents, only less experienced officers were required to prepare investigation plans as part of their training, which appears to be no more than an arbitrary deviation from the IOPM; and
 - (c) the settlement information for conciliation concluded after 2005 was not available in the settlement register on the EOC website;
- acknowledges that the EOC has undertaken to:
 - (a) ensure that all initial intake decisions are properly documented, and consider incorporating the consultants' recommended practice in the IOPM;
 - (b) expand the front page of the Complaint Management System to record the initial and assignment decisions and the rationale behind them, so that all complaint intake decisions are recorded as a single document;

- (c) remind its staff to prepare an investigation plan in accordance with the requirement of the IOPM; and
- (d) review the format and contents of conciliated cases, with a view to refreshing the presentation of case outcomes on the EOC website;
- urges the EOC to:
 - (a) expeditiously implement the proposal to expand the front page of the Complaint Management System to record the initial and assignment decisions and the rationale behind them;
 - (b) incorporate the above proposed arrangement into the IOPM and take measures to ensure compliance in future;
 - (c) update the information in the settlement register on the EOC website; and
 - (d) expeditiously implement the audit recommendations in paragraphs 3.10, 3.11, 3.12, 3.15 and 3.19 of the Audit Report;

Performance reporting in Controlling Officer's Report ("COR")

- expresses concern that the performance reporting of the EOC in the COR of the CMAB is inadequate:
 - (a) there are no outcome indicators, such as the number/percentage of complaint cases that are satisfactorily resolved, say, by means of conciliation; and
 - (b) there are no unit cost or productivity indicators to measure the economy, efficiency and cost-effectiveness of the resources deployed by the EOC, such as the average unit cost to complete a complaint case;
- acknowledges that the Secretary for Constitutional and Mainland Affairs has undertaken to work with the EOC to identify new performance targets/indicators to measure the outcome and productivity of the EOC. The new performance targets/indicators will be included in the 2010-2011 COR of the CMAB;
- urges the Secretary for Constitutional and Mainland Affairs to implement the above without delay; and

Follow-up actions

- wishes to be kept informed of:
 - (a) the Director of Audit's decision in advising an auditee which is a non-governmental organisation more positively of the need to seek its governing body's endorsement of the organisation's response to a draft Audit Report;
 - (b) the progress and result of the proposal on separating the posts of the Chairperson and the CEO of the EOC;
 - (c) the decision made regarding the proposed engagement of external accountants to conduct compliance and management audit;
 - (d) the decision made in publishing the attendance records of Board/Committee meetings in the EOC's annual reports;
 - (e) the progress made in finalising the revised MAA;
 - (f) the measures that will be taken to promote a corporate culture that emphasises prudence and economy in the use of public funds;
 - (g) the measures that will be taken to improve the EOC's internal control, procurement and management of stores;
 - (h) the progress made in implementing the proposal to expand the front page of the Complaint Management System to record the initial and assignment decisions and the rationale behind them;
 - (i) the progress made in incorporating the proposed arrangement into the IOPM and the measures taken to ensure compliance in future;
 - (j) the progress made in updating the information in the settlement register on the EOC website;
 - (k) the new performance targets/indicators that will be adopted by the EOC; and
 - (l) any other further progress in addressing the various issues mentioned above.

A. Introduction

The Audit Commission ("Audit") conducted a review of the Hong Kong Arts Development Council ("HKADC"). The review focused on the following areas:

- corporate governance;
- grants and proactive projects; and
- administrative issues.

2. **Mr TSANG Tak-sing, Secretary for Home Affairs**, made an opening statement at the Committee's public hearing on 12 May 2009. The full text of his statement is in *Appendix 14*.

B. Role and functions of the Hong Kong Arts Development Council

3. The Committee notes that the HKADC is a statutory body established for the purpose of the development of the arts in Hong Kong. It is tasked with eight functions as specified in section 4 of the HKADC Ordinance (Cap. 472), and receives an annual funding of about \$100 million. The Committee was concerned about whether the HKADC had been given due respect and recognition by the Government to enable it to fully discharge its eight functions.

4. According to paragraphs 3.38 and 3.40(e) of the Director of Audit's Report ("Audit Report"), the HKADC had been providing funding to the Hong Kong International Film Festival Society ("HKIFFS") since 2004. However, the HKADC's funding and monitoring responsibility over the HKIFFS was transferred to the Television and Entertainment Licensing Authority under the Commerce and Economic Development Bureau ("CEDB") starting from 1 April 2009. To ascertain the HKADC's involvement in the decision-making process, the Committee asked:

- whether the HKADC had been consulted before the decision of transfer was made;
- about the HKADC members' views towards the transfer of responsibility; and
- whether the time and efforts previously spent by the HKADC to enhance the evaluation mechanism of the HKIFFS were wasted (paragraph 3.38(a) of the Audit Report referred).

5. **Mr MA Fung-kwok, Chairman, HKADC**, said that:

- the HKADC was not consulted but only notified by the Home Affairs Bureau ("HAB") in February 2009 of the transfer. After receipt of the HAB's notification, the Council discussed the matter and members decided to convey their views to the Government;
- generally speaking, since there was a designated agency in the Government responsible for the promotion and development of the filming industry, it was reasonable for the Government to make such a move in order to centralise and utilise the resources more effectively. In future, the HKADC would continue to promote the development of the filming industry through other channels;
- it was natural that after years of support by the HKADC, some arts groups would become mature and develop in their own way. For example, the funding responsibility of six major arts groups was transferred from the HKADC to the HAB in 2007-2008. The transfer of the HKIFFS was just another similar case; and
- members considered that as the funding body of the HKIFFS, the HKADC was duty-bound to monitor the performance of the HKIFFS. Hence, extensive discussion was held with the HKIFFS since 2008 with a view to developing an evaluation mechanism that would be acceptable to both parties. As the evaluation mechanism was close to finalisation, members were concerned as to whether the mechanism could be implemented after the transfer. In this connection, a meeting had been arranged with the CEDB through the HAB to discuss the matter, and the CEDB had undertaken to consider adopting the proposed monitoring framework.

6. **The Secretary for Home Affairs and Mrs Carrie YAU TSANG Ka-lai, Permanent Secretary for Home Affairs**, said that:

- despite the change of funding channel, the Government's overall financial commitment to the HKIFFS remained unchanged. In fact, before the funding responsibility of the HKIFFS was transferred to the HKADC, the Hong Kong International Film Festival had been organised by various government departments. The recent transfer to the CEDB was a positive move to ensure optimal utilisation of resources from a value-for-money perspective, and was conducive to the overall development of culture and the arts in Hong Kong; and

- although there might be inadequacies in the process of communicating the transfer decision to the HKADC, the Government had ensured a smooth transfer of work to the CEDB. The CEDB was also aware of the audit recommendations regarding the need to finalise an evaluation mechanism with the HKIFFS and would continue to take the matter forward.

7. At the request of the Committee, the HKADC provided relevant papers and minutes of its Council meetings relating to the discussion on the transfer of the HKIFFS to the CEDB. The Committee noted that the Chairman, HKADC, had, upon request of its members, wrote to the Secretary for Home Affairs to convey the Council's dissatisfaction about the absence of prior consultation. The HKADC members considered that the Government should have respected the role of the HKADC as the funding body of the HKIFFS, and engaged the HKADC and other relevant stakeholders in the process so that they could contribute their views.

8. The Committee pointed out that as a major statutory body responsible for the planning, promotion and support of the development of the arts in Hong Kong, the HKADC should play a key role in developing the cultural and arts software for the West Kowloon Cultural District ("WKCD") project. However, the Committee noted that the HKADC did not have institutionalised participation in the Board of the WKCD Authority. For instance, the Chairman, HKADC, was appointed to the Board only in a personal but not official capacity as the Chairman of the HKADC. The Committee asked:

- given that the HKADC's request to nominate several members to the Board of the WKCD Authority was rejected by the Government, whether the HKADC considered that the Government had not respected its views; and
- why the Government had not allowed the institutionalised participation of the HKADC in the Board of the WKCD Authority, if it had paid due regard to the HKADC's role and functions.

9. The **Chairman, HKADC**, responded that:

- after the HKADC's request to nominate several members to the Board of the WKCD Authority was rejected by the Government, members had not formally discussed the matter at a meeting. Personally, he believed that the Government had made this decision after thorough considerations. Although he was appointed to the Board in a personal capacity, he still would convey the arts sectors' feedback and the Council's views to the Board;

- he had no intention to comment on whether the Government had given due respect to the HKADC. The HKADC, as a publicly-funded statutory body, would diligently discharge its functions with its existing resources. It also had the responsibility to support the Government's cultural and arts policy;
- when the WKCD Authority was established, he had conveyed his views to the HAB regarding the need to clarify the role and functions of the WKCD Authority and the HKADC. However, sufficient time should be given to the Government to rationalise the relationship between the two bodies. Recently, the Chairman of the Development Committee of the WKCD Authority had given a briefing to the HKADC, and invited the HKADC to be a partner during the consultation process. The HKADC had also held internal discussion to examine its positioning in the WKCD project. Members expressed that they would like to be the major consultation partner playing a key role during the process. The HKADC would further review its deployment of resources and put up recommendations for the Government's consideration; and
- in a recent Board meeting of the WKCD Authority, the Secretary for Home Affairs, as a public officer member of the Board, remarked that the Chairman of the HKADC would play a leading role in the development of the cultural and arts software for the WKCD project. The HKADC members welcomed this encouraging message from the Government and would make greater efforts to actively participate in the cultural and arts software development of the WKCD project.

10. Regarding the appointment of members to the Board of the WKCD Authority, the **Secretary for Home Affairs** said that the WKCD Authority Ordinance (Cap. 601) was approved by the Legislative Council. The Ordinance had already specified that certain members of the Board should be of good standing in the field of arts and culture. The current composition of the Board met the statutory requirements.

C. Corporate governance

11. The Committed noted that the HKADC had already undergone six nomination exercises for returning representatives of arts sectors as Council members since its establishment in 1995, and the HAB was responsible for appointing a nomination agent to assist in conducting the nomination exercise. However, as revealed in paragraphs 2.9 and 2.13 of the Audit Report, there was still feedback from some arts organisations/practitioners that the process of nominating Council members was not well understood by the arts sectors, with some arts organisations/practitioners not yet registered as members of the 10 nominating bodies. The Committee asked:

- whether the same nomination agent was appointed in the last three nomination exercises; and
- about the measures that would be adopted by the HAB to facilitate the registration of members of the nominating bodies.

12. **The Secretary for Home Affairs and Ms Winnie SO Chui-ying, Principal Assistant Secretary (Culture) for Home Affairs**, said that:

- in the last three nomination exercises in 2001, 2004 and 2007, the HAB had, through tendering, appointed the same consulting firm to act as the nomination agent. The HAB had set out the scope of work and deliverables in a project brief which was issued to various consulting firms. In the 2007 exercise, only one firm responded to the tendering invitation and hence the same company was appointed; and
- the HAB had accepted the audit recommendations that it should lengthen the period for the registration of members of the nominating bodies, step up voter registration efforts and consider earmarking a larger publicity budget to widen the publicity channels so that more people from the arts community could take part in the next nomination exercise.

13. **Mr Louis YU, Chief Executive, HKADC**, supplemented that during each nomination exercise, the HKADC received different feedback from the arts sectors. For example, some persons were not sure about the nominating body to which they belonged, and some nominating bodies did not help their members register as voters. Since the arts sectors had been changing rapidly in the past few years, with more new arts groups emerging, it was important to continuously improve the nomination procedures.

14. According to paragraph 2.18 of the Audit Report, there was a downward trend in the attendance rates of members at meetings of the HKADC Council and four of its Committees during the previous Council term (2005 to 2007). The Committee asked whether the HKADC had ascertained the underlying reasons for the low attendance rates, and whether it was because members felt that despite their expertise and experience in the field, their views were not respected and recognised by the Government.

15. The **Chairman, HKADC**, responded that:

- at the first or second meeting of a new term, the Council would, after consulting members' availability, decide the meeting dates for the whole year. Meetings were usually held after normal office hours to facilitate members' attendance. However, it was noted that some members, being arts practitioners, had to work irregular hours or outside Hong Kong for a prolonged period (e.g. filming activities), and there were practical difficulties in getting all members to attend the meetings as scheduled;
- improving members' attendance rates had always been his concern. Staff of the Administration Office would remind members to attend meetings. Members were also advised to inform the Administration Office in advance if they were unable to attend any meetings. Some members, although not being able to attend meetings, would convey their views in writing or through other members to the Council or Committee; and
- apart from attending Council and Committee meetings, members also contributed to the Council's work by offering advice from time to time and participating in other working groups.

16. The **Secretary for Home Affairs** also said that:

- it was noted that the attendance rates of some individual members were low. Members were not able to attend meetings due to various reasons. Their absence from meetings was not because they had any doubt on the effective functioning of the Council. In fact, members were very committed to the work of the HKADC and had a keen interest in furthering the development of the arts in Hong Kong. The HKADC's overall performance indicated that it had effectively discharged its statutory functions; and
- in recommending re-appointment of the HKADC's members to the Chief Executive of the Hong Kong Special Administrative Region, the HAB had reported the relevant members' attendance records to the Chief Executive for reference.

17. According to the supplementary information provided by Audit in **Appendix 15**, the Committee noted that in 2008, for the Council, Arts Promotion Committee and Arts Support Committee meetings, the attendance rates of nominated members were 79%, 83% and 74% respectively, whereas those of the directly appointed members were only 69%, 63% and 53% respectively. Noting that the attendance rates of nominated members were higher than those directly appointed, the Committee enquired about the reasons for such a difference.

18. The **Chairman, HKADC**, said that according to his observation, in the first year of a term, the attendance rates of nominated members were higher as matters relating to resource allocation and project funding of the arts sector represented by them were discussed. After the first year, when the focus of the discussions shifted to the implementation details of specific projects, their attendance rates tended to decline. For directly appointed members, their attendance rates during the whole term tended to remain stable. Nevertheless, the above observation was only based on his experience as Chairman in the past four years from 2005 to 2008, and exchange of views with his predecessor. Given a longer period, there might be different observation and views.

19. It was revealed in paragraph 2.29 of the Audit Report that for two (13%) of the 16 Council meetings held in 2007 and 2008, resolutions were passed during the time when there was not a quorum. The Committee asked whether the HKADC had reviewed the resolutions passed, and the measures that would be taken to prevent recurrence of similar situation.

20. The **Chairman, HKADC**, and the **Chief Executive, HKADC**, said that:

- during the two said Council meetings, five resolutions were passed when there was not a quorum after some members had left the meeting. The HKADC had already sought the Council's approval for the resolutions subsequently;
- according to the procedures of meetings, if there was no quorum during a meeting, the Chairman might decide to continue the discussion but no decision would be made. The proposed resolution would then be circulated to all members after the meeting for approval. From 2004 to 2008, among the 39 Council meetings held, 10 resolutions were passed through circulation of papers due to the lack of a quorum during the meetings. Hence, there was already a mechanism in place for dealing with the passage of resolutions when there was not a quorum;
- for the two meetings in question, although the secretary had recorded the time when the members left the meetings, the secretary had miscounted the number of members and hence had not reminded the Chairman of the lack of a quorum. In preparing the minutes of meetings subsequently, the secretary had not counted the number of members present again. As a result, the problem had not been identified until the Audit examination; and

- staff of the HKADC had been reminded to pay attention to the counting of the number of members during meetings, and take measures to prevent recurrence of similar problem. The secretary would also record the number of attending members in the minutes of meetings so that in case a lack of quorum was identified after a meeting, remedial actions could be taken at the next Council meeting.

21. According to paragraph 2.33 of the Audit Report, Audit examination of the declarations of interests submitted by Council members of the previous term (2005 to 2007) and by current Council members (with tenure from 2008 to 2010) showed that some members had not submitted any declarations of interests or had not submitted them for some years. Of the 24 current members, 12 had not submitted their declarations of interests for 2008. The Committee enquired about the latest position of these cases, and whether any cases of conflict of interests had been identified before.

22. The **Chief Executive, HKADC**, replied that:

- the declarations of interests of all current members had been received by February 2009. The HKADC had not followed up the declarations of interests of those former members who were not re-appointed. The HKADC adopted a two-tier reporting system for declaration of interests. Apart from submitting declaration of interests forms, members were also required to report at meetings any conflict of interest; and
- in the early years, there were indeed cases of members having received grants without declaring interests, resulting in investigations by the Independent Commission Against Corruption ("ICAC"). Since then, the declaration of interests system had been improved. A Review Committee had been set up under the Council to monitor and review conflict of interest cases. If members were involved in or related to a project application, that application would be passed to the Review Committee for further examination.

23. As reported in paragraph 2.38 of the Audit Report, Audit examination of the HKADC's three-year strategic plans revealed that there was a break in the planning period as the year 2004-2005 was not covered by any strategic plan. Further, the HKADC had not posted the second and third strategic plans on its website for reference by stakeholders and the arts community. The Committee asked:

- about the reasons for the break in the planning period;
- about the process of formulating strategic plans; and

- whether the HKADC would publicise its strategic plans in future.

24. The **Chairman, HKADC**, and the **Chief Executive, HKADC**, said that:

- the break in 2004-2005 was due to the transition period between two Council terms, during which a Chairman was appointed to serve a short remaining period of a term. The former Chairman might consider it not necessary to carry out a three-year strategic plan during his short tenure. After he took up the Chairmanship in 2005, a three-year strategic plan was made;
- the HKADC usually held a brainstorming session six months after the commencement of a new Council term, and another session in the middle of the term. The first session aimed to obtain members' consensus regarding the specific objectives to be achieved and the task list for the coming three years. In the second session, members would review the progress, priority and effectiveness of the HKADC's work, and make necessary adjustments. Members and staff at managers and above level would attend these brainstorming sessions, and sometimes government officials or expertise in the field would be invited to exchange views with them; and
- the HKADC would arrange a retreat in June 2009 to prepare for the next three-year strategic plan. After the three-year strategic plan was made, the HKADC would consider publicising it on the website and the annual report.

25. In view of the problems in corporate governance and administration of grants/projects identified by Audit, the Committee asked whether:

- the HKADC would consider setting up an audit and compliance committee to oversee and strengthen internal control and compliance matters, in addition to the six Committees established under the Council; and
- there was any accounting professional in the HKADC's existing membership.

26. The **Chairman, HKADC**, and the **Chief Executive, HKADC**, replied that:

- before Audit commenced its review of the HKADC, the idea of setting up an internal audit mechanism had been raised by members at a brainstorming session held in 2008. Members' reaction was positive, and the HKADC was reviewing the matter;

- after the audit review, the Management Committee had been tasked to follow up the audit recommendations. The progress made in implementing such recommendations had become a standing item since the last two meetings of the Management Committee. The HKADC had drawn lessons from this audit exercise, and would consider carrying out internal audit in its operations where appropriate; and
- there was no accounting professional in the HKADC's existing membership.

27. The Committee asked whether the Council had regularly reviewed its performance indicators/measurements with a view to fulfilling its mission, and whether the number of new arts groups and artists supported was one of the indicators. The **Chairman, HKADC**, and the **Chief Executive, HKADC**, said that the performance of the HKADC and that of specific projects were discussed at Council meetings from time to time. In evaluating its performance, the HKADC was concerned about the feedback from the arts sectors, in addition to quantitative results such as the number of projects completed. Currently, there was no measurement on the number of new arts groups and artists supported, but the HKADC would consider adopting similar indicators.

D. Grants and proactive projects

Appointment of examiners

28. The Committee noted that the HKADC appointed examiners to assist it in application adjudication and project assessment. However, according to paragraphs 3.9 and 3.12 of the Audit Report, as at 31 December 2008 (five months after their appointment), 27 (10%) of the 274 selected examiners had not returned their appointment acceptance forms, and 24 (9%) of the 274 examiners had not submitted their curriculum vitae ("CV") forms. Of these 24 examiners, 19 were assigned application adjudication/project assessment duties. The Committee enquired:

- how the examiners were recruited, selected and appointed; and
- why the HKADC had not followed up with the examiners regarding their appointment acceptance forms and CV forms.

29. The **Chief Executive, HKADC**, and **Ms Josephine WAI, Director, Arts Support, HKADC**, replied that:

- there were two channels to recruit examiners. The HKADC would conduct open recruitment of examiners by placing advertisements in newspapers. Besides, the respective art-form groups could also nominate qualified and experienced persons to serve as examiners. All applicants had to go through a selection process. The criteria for selecting examiners included the applicants' qualifications, experience, professional standing and whether they had the time and commitment to carry out the adjudication and assessment work;
- the arrangement for appointing examiners to assist in project adjudication was approved by the HKADC Council in 1999 after detailed discussion. The HKADC had invited the ICAC to comment on its appointment procedures. As application adjudication/project assessment formed the core of the HKADC's work, the HKADC would continue to improve the system;
- examiners with relevant professional background would first be selected from the pool of over 400 examiners, and they should have no conflict of interest with the project applicants. The assignment of examiners would then be determined by drawing lots. After the examiners had completed adjudication, the recommended subvention amount would be submitted to the Arts Support Committee for endorsement; and
- for some long-serving examiners, when they were re-appointed, they told the Administration Office that they had submitted their CV forms before. After verbal confirmation was obtained from them, they were not required to submit the CV forms again.

Audit examination of grant and proactive projects

30. Regarding the assessment of grant/proactive projects, the Committee asked:

- about the criteria adopted for making assessment, and how such criteria could facilitate the HKADC in furthering the development of the arts;
- about the number and percentage of grant/proactive projects approved in 2007-2008 for which examiners were assigned to attend and observe the project activities for making assessment;
- whether there were any measures to handle the situation where the assigned examiners turned out to be unavailable for making assessment, as referred to in paragraph 3.23 of the Audit Report; and

- whether examiners with unsatisfactory performance would be removed from the pool.

31. The **Chairman, HKADC**, and the **Chief Executive, HKADC**, said at the public hearing and in his letter of 26 May 2009 in *Appendix 16* that:

- the criteria adopted for the assessment of grant/proactive projects varied depending on the nature of the projects. In general, the criteria included the artistic merit of the project, technical standard, creativity and originality, and value of the project to the arts development in Hong Kong. These criteria would enable the HKADC to have an independent artistic review to assess the outcome and merits of these projects. When the same applicants submitted new project applications in future, the assessment reports would also be made available to the examiners for reference. This would facilitate the HKADC to further arts development through supporting applicants and projects with good track record and merits;
- the number of grant/proactive projects due to complete in 2007-2008 was 236, of which assessment had been arranged for 231 projects, equivalent to 97.9% of the total projects;
- sometimes planned assessment could not be carried out because the examiners became unavailable (e.g. due to sickness) and did not inform the Administration Office in advance to facilitate the making of alternative arrangements. In future, the HKADC might consider adopting a standby examiners arrangement, say, by requesting a staff member to act as examiner when the assigned examiner suddenly became unavailable; and
- when considering re-appointment of examiners, the Administration Office would prepare a performance report of the examiners setting out information such as whether they had provided the assessment reports on time, the number of occasions on which they failed to carry out the assignments as scheduled, etc, for reference by the selection panel. If the performance of examiners was found to be unsatisfactory, the examiners would not be re-appointed.

32. According to paragraph 3.29 of the Audit Report, 32 (47%) of the 68 grantees/project organisers could not complete their projects and/or submit their reports on time, and had to apply for extension of time for project completion and/or report submission. The approved extension of time for them ranged from 10 to 365 days, with an average of 89 days. The Committee enquired:

- about the reasons why a substantial proportion of grantees/project organisers could not submit their projects/reports on time;

- whether the HKADC would consider adopting more stringent measures in respect of those grantees/project organisers who had repeatedly failed to submit their projects/reports on time; and
- whether such delay in submission would affect the grantees/project organisers' future applications.

33. The **Chief Executive, HKADC**, and the **Director, Arts Support, HKADC**, said that:

- among those 47% of grantees/project organisers who could not complete their projects and/or submit their reports on time, about 80% of them had applied for an extension of three months in accordance with the HKADC's procedures. The HKADC had allowed the grantees/project organisers to extend the project completion date, as long as they could provide valid justifications, such as artistic creation reasons, difficulties in venue booking, or the lack of other financial support. Such flexibility was given to meet the needs of the arts sector, especially since many of the grantees were small arts groups or individual artists with limited resources. The HKADC inclined to provide support to these grantees instead of regulating or penalising them; and
- three types of reports were used to assess the performance of the grantees/project organisers. The first one was the artistic performance report, which would be included for reference by examiners when the grantees/project organisers submitted new applications. In addition, the grantees/project organisers had to submit a self-assessment report, including information such as the number of performance sessions, the number of tickets sold, and the number of audience and comments by the media. An assessment of financial performance by auditors was also required. The administrative and financial performance of the grantees/project organisers would be presented in a paper for reference by the examiners.

34. In respect of the following instances of non-compliance identified by Audit, the Committee queried why the HKADC had not followed the laid-down requirements in the Procedures Handbook:

- reminders were not issued on 24 occasions (22%), and there was a delay of two to 24 days in issuing 11 reminders (10%) (paragraph 3.28 of the Audit Report referred);

- among the 12 grantees/project organisers on the HKADC's "frozen" list, "frozen" letters were not issued for four cases, and for six cases, "frozen" letters were not issued within seven days after the expiry of project/report due dates (paragraph 3.32 of the Audit Report referred); and
- the grantees/project organisers of four "frozen" cases had not completed project reports which had been overdue for a long time, and no action had been taken in recovering the grants (paragraph 3.35 of the Audit Report referred).

35. The **Director, Arts Support, HKADC**, explained that:

- although there were some instances where the "frozen" letters were not issued or issued with a delay, these cases would not be missed out as the computer system would automatically "freeze" such overdue projects. Once the project status was frozen, the grantees/project organisers concerned could not proceed with any other new applications unless with the approval of the Accounts Department;
- the Administration Office had not issued reminders for some cases because during its communication with the grantees/project organisers, it was aware of the progress of the projects and noted that the projects could eventually be completed. For example, sometimes the promotional materials and the acknowledgement lists of the performance had already been submitted to the HKADC for checking, and the HKADC had assigned examiners to assess the performance;
- for some cases, "frozen" letters had not been issued timely as flexibility had been allowed in view of the special circumstances of individual cases. In one case, the delay involved was 131 days. The grantee, a Nepalese, had difficulties in filling in the relevant forms and preparing project proposal in writing. The Administration Office had to provide close guidance to him at each step of his application and throughout the project implementation period, and issue reminders to him from time to time. A non-standard "frozen" letter was also issued to him using languages that he could easily understand. The grantee was grateful for the assistance rendered by the staff of the HKADC; and
- regarding the four long overdue cases, for one case, the HKADC had never released the funding as it was not sure whether the new Chairperson of the arts group would accept the grant. The other three projects had eventually been completed, and the HKADC's auditors were auditing their accounts. Hence, the HKADC had decided not to take legal action against them to recover the grants.

36. The **Chairman, HKADC**, added that:

- before he took up the Chairmanship, there was a general impression from the arts sectors that the HKADC was bureaucratic and rigid in following rules and procedures. He tried to change such impression by emphasising the role of the HKADC as a responsible service provider, i.e. accountable to itself, to the arts sectors and to the public. Whilst it was necessary to maintain the relevant rules and procedures, it was also important to streamline the procedures and adopt a user-friendly attitude in providing service and support to the arts sectors. During this change process, there might be situations in which the Administration Office had to exercise flexibility or discretion when the arts groups or arts practitioners could not meet the laid-down requirements;
- since there were discrepancies between actual implementation and the stipulated requirements, the HKADC would also consider revising the guidelines or Handbook to build in flexibility for discretion or exceptional arrangements, and specify the approval authority; and
- the increase in workload in the past two years had also resulted in oversight or inadequacies in the handling of projects. In 2006-2007, there were a total of 487 applications and the HKADC approved about 190 projects. In 2007-2008, the number of applications increased to over 800, and the approved projects amounted to 354, representing an 80% increase compared to the previous year. In 2008-2009, there were over 700 applications and more than 400 projects were approved. Despite such increase, staff of the HKADC had made their best efforts to ensure compliance with the relevant requirements.

37. Referring to some of the irregularities identified by Audit, the **Secretary for Home Affairs** also mentioned in his opening statement that:

- with the transfer of the responsibility for administering funding to the major performing arts groups to the HAB on 1 April 2007, the HKADC had since focused on the cultivation and development of small-to-medium sized arts groups and local emerging artists. Some of the issues raised in the Audit Report reflected the challenges facing the HKADC as it embarked on this new course, as well as the development process of the small-to-medium sized arts groups; and

- to improve the management of these arts groups, the HKADC had begun to offer short courses on the management and governance of arts groups in February 2009. These courses, covering topics from accounting, contract management, intellectual property to corporate governance, were designed to help the small and medium sized arts groups upgrade their management and governance skills. As the small and medium sized arts groups picked up their management and governance standards, it was necessary for the HKADC to maintain a degree of flexibility in exercising its regulatory role over them to allow them room for growth and development.

38. In the above connection, the Committee asked whether the HKADC Council was regularly informed of the irregularities identified in the administration of grants and proactive projects, so that members could have a better understanding of the situation and might take actions to address the problems as necessary.

39. The **Chairman, HKADC**, said that a comprehensive list of projects was submitted for members' information at almost every Council meeting. The list included information on project commencement date, and project due date and expected completion date. Although there was no detailed information on when reminders or refund letters were issued, the Administration Office would bring up the long overdue cases to the attention of the Council and seek its direction on the action to be taken. The HKADC would consider including more useful information on the list to facilitate project monitoring.

E. Administrative issues

40. Regarding the relocation to the Quarry Bay office referred to in paragraphs 4.10 to 4.16 of the Audit Report, the Committee enquired about the justifications for moving to a larger office, and whether sufficient information had been provided to the Management Committee to facilitate its decision-making. The **Chairman, HKADC**, and the **Chief Executive, HKADC**, explained that:

- due to the booming property market in 2007, the HKADC was informed that the rent for the Sheung Wan office would increase on renewal of the lease. Since then, the Management Committee had thoroughly considered various options of relocation, including the possibility of moving to the Jockey Club Creative Arts Centre in Shek Kip Mei. The Administration Office had also carried out detailed analyses for different options;

- the decision to move to the Quarry Bay office had taken into account the fact that the office had a longer lease term of five years, and the HKADC could save the cost and disruption of having to move to another office upon expiry of a three-year tenancy agreement. The moving cost, amounting to around \$6 million, would far exceed the rental cost incurred over a five-year period for the additional office space in the Quarry Bay office. Hence, the HKADC considered the moving plan feasible; and
- it was anticipated that the HKADC had to play a more important role to assist in the development of the cultural and arts software of the WKCD project. Hence, sufficient office space was required to cope with future expansion. The surplus space would also provide a venue for arts groups to hold meetings, workshops or exhibitions and to forge closer ties. Although no supporting data for future expansion was provided in the office accommodation proposal, the HKADC considered its decision reasonable having regard to the above considerations.

F. Conclusions and recommendations

41. The Committee:

Role and functions of the Hong Kong Arts Development Council ("HKADC")

- expresses concern that the HKADC, as a statutory body established for the purpose of the development of the arts in Hong Kong with an annual funding of about \$100 million, might not have been given due respect and recognition by the Government to enable it to fully discharge its eight functions as specified in section 4 of the HKADC Ordinance (Cap. 472), as reflected by the following:

Hong Kong International Film Festival Society ("HKIFFS")

- (a) the HKADC's funding and monitoring responsibility over the HKIFFS was transferred to the Television and Entertainment Licensing Authority under the Commerce and Economic Development Bureau ("CEDB") starting from 1 April 2009. Although the HKADC had been providing funding to the HKIFFS since 2004, it was not consulted but only notified by the Home Affairs Bureau ("HAB") in February 2009 of the transfer. As a result, the Chairman, HKADC, wrote to the Secretary for Home Affairs to convey the Council's dissatisfaction about the absence of prior consultation as it considered that the HKADC, as the funding body of the HKIFFS, should be engaged in the process so that it could contribute its views;

- (b) the HKADC held extensive discussion with the HKIFFS in 2008 regarding a proposed evaluation mechanism for assessing the performance of the HKIFFS. However, the time and efforts spent by the HKADC to enhance the evaluation mechanism might be wasted due to the transfer of the funding and monitoring responsibility of the HKIFFS to the CEDB; and

West Kowloon Cultural District ("WKCD") project

- (c) the HKADC, as a major statutory body responsible for the planning, promotion and support of the development of the arts in Hong Kong, should play a key role in developing the cultural and arts software for the WKCD project. However, the HKADC does not have institutionalised participation in the Board of the WKCD Authority. For instance, the Chairman, HKADC, was appointed to the Board only in a personal but not official capacity as the Chairman of the HKADC. The HKADC's request that it should have the right to nominate several members to the Board was also rejected by the Government;
- urges the Government to:
 - (a) accord to the HKADC the recognition it deserves as the statutory body tasked with the role to develop the arts in Hong Kong as stipulated in section 4 of the HKADC Ordinance, such as by allowing institutionalised participation of the HKADC in the HKIFFS and the WKCD project; and
 - (b) rationalise the relationship between the WKCD Authority and the HKADC, so as to ensure the optimal utilisation of the HKADC's annual funding in the planning, promotion and support of the development of the arts in Hong Kong;

Corporate governance

- expresses concern that:
 - (a) despite the fact that the HKADC has already undergone six nomination exercises since its establishment in 1995 and that the same nomination agent was appointed by the HAB to assist in conducting the last three nomination exercises, in the 2007 nomination exercise, there was still feedback from some arts organisations/practitioners that the process of nominating the HKADC members was not well understood by the arts sectors, with some arts organisations/practitioners not yet registered as members of the 10 nominating bodies;

- (b) there was a downward trend in the attendance rates of members at meetings of the HKADC Council and four of its Committees during the previous Council term (2005 to 2007);
 - (c) according to the observation of the Chairman, HKADC, in the first year of a term, the overall attendance rates of nominated members at Council and Committee meetings were higher as matters relating to resource allocation and project funding of the arts sector represented by them were discussed. After the first year, the attendance rates tended to decline when the focus of the discussions shifted to the implementation details of specific projects;
 - (d) for two of the Council meetings held in 2007 and 2008, resolutions were passed in the absence of a quorum; and
 - (e) for the Council term 2005 to 2007, three of the 24 members had not submitted any declarations of interests throughout their tenure and 10 had not submitted their declarations for one or two years. For the term 2008 to 2010, 12 of the 24 members had not submitted their declarations for 2008;
- considers that as the members' expertise and commitment are essential to the effective functioning of the Council and its Committees, they should make greater efforts to attend the meetings, although it understands that some members, being arts practitioners who have to work irregular hours or who are outside Hong Kong frequently, may face practical difficulties in attending all Council and Committee meetings;
 - acknowledges that:
 - (a) the Secretary for Home Affairs has agreed to implement the audit recommendations in paragraphs 2.14 and 2.25 of the Director of Audit's Report ("Audit Report"); and
 - (b) the Chief Executive, HKADC, has agreed to implement the audit recommendations in paragraphs 2.24, 2.30, 2.34, 2.39 and 2.45 of the Audit Report;
 - urges:
 - (a) the Secretary for Home Affairs to:
 - (i) lengthen the registration period to facilitate the registration of members of the nominating bodies; and

- (ii) expeditiously implement the audit recommendations in paragraphs 2.14 and 2.25 of the Audit Report; and
- (b) the Chief Executive, HKADC, to:
 - (i) ascertain the reasons for the declining attendance rates at the Council and some Committee meetings during the previous Council term and take measures to encourage members' active participation in meetings throughout the term of their membership;
 - (ii) consider setting up an audit and compliance committee, with a professional accountant as a member, to oversee and strengthen internal control and compliance matters;
 - (iii) promote an understanding of important corporate governance principles among Council members, especially new members (e.g. through briefings at induction programmes); and
 - (iv) expeditiously implement the above audit recommendations;

Grants and proactive projects

- expresses serious concern that there are inadequacies in the appointment of examiners for application adjudication/project assessment:
 - (a) in 2008, for the four art-forms selected for review by the Audit Commission, the HKADC assigned application adjudication/project assessment duties to 11 examiners who had not returned their appointment acceptance forms, and to 19 examiners who had not submitted their curriculum vitae ("CV") forms to declare their interests; and
 - (b) during July 2005 to June 2008, the HKADC had not required its examiners to submit their updated CV forms on an annual basis to keep the register of examiners' interests up-to-date;
- expresses concern that on the administration and assessment of grants/projects:
 - (a) the HKADC has not ensured that cultural exchange projects were processed in time. As a result, the HKADC entered into agreements with two grantees after completion of the respective cultural exchange project, rendering some grant conditions (such as project monitoring) not applicable;

- (b) planned assessments for six projects were not carried out as the assigned examiners turned out to be unavailable; and
- (c) 47% of the sampled grantees/project organisers could not complete their projects and/or submit their reports on time and had to apply for extension;
- acknowledges that the Chief Executive, HKADC, has agreed to implement the audit recommendations in paragraphs 3.15 and 3.39 of the Audit Report;
- urges the Chief Executive, HKADC, to:
 - (a) implement measures to ensure that all examiners return their appointment acceptance forms and CV forms before they take up the appointment;
 - (b) make appropriate arrangements to ensure that project assessments can still be carried out as planned when examiners cannot undertake assigned duties (e.g. to introduce arrangements for standby examiners);
 - (c) regularly report to the Council on any irregularities identified in the administration of grants and proactive projects, so that appropriate measures can be taken to address such problems; and
 - (d) consider adopting more stringent measures in respect of grantees/project organisers who have repeatedly failed to complete projects/reports on time (e.g. to debar them from making further grant/proactive project applications for a longer period), and publicising such measures to discourage delay in submission;

Administrative issues

- accepts the HKADC's explanation that before deciding on the relocation to the Quarry Bay office, the Management Committee had thoroughly considered various options. The decision had taken into account the fact that the Quarry Bay office had a longer lease term of five years, and the HKADC could save the cost and disruption of having to move to another office upon expiry of a three-year tenancy agreement. The surplus space would also allow for future expansion and provide a venue for arts groups to hold meetings, workshops or exhibitions and to forge closer ties. Nevertheless, the Committee is concerned that:
 - (a) in the Management Committee paper of September 2007 concerning the relocation of the HKADC office, there was no supporting data to justify the request for additional space in the accommodation proposal; and

- (b) in the Management Committee's discussion of using some of the surplus space in the Quarry Bay office to provide new support services to arts groups, financial data was not provided for the Management Committee's consideration;
- expresses concern that there was room for improvement in placing surplus fund as time deposits to earn interest income;
- acknowledges that the Chief Executive, HKADC, has agreed to implement the audit recommendations in paragraphs 4.17, 4.25, 4.31 and 4.37 of the Audit Report; and

Follow-up actions

- wishes to be kept informed of:
 - (a) any progress made in allowing the institutionalised participation of the HKADC in the HKIFFS and the WKCD project;
 - (b) any progress made in rationalising the relationship between the WKCD Authority and the HKADC;
 - (c) the decision made in lengthening the registration period to facilitate the registration of members of the nominating bodies;
 - (d) the reasons for the declining attendance rates during the previous Council term and the measures taken to encourage members' active participation in meetings throughout the term of their membership;
 - (e) the decision made regarding the setting up of an audit and compliance committee;
 - (f) the measures taken to promote an understanding of important corporate governance principles among Council members, especially new members;
 - (g) the measures taken to ensure that all examiners return their appointment acceptance forms and CV forms before they take up the appointment;
 - (h) the arrangements made to ensure that project assessments can still be carried out as planned when examiners are unavailable to undertake assigned duties;

- (i) the decision made regarding the adoption of more stringent measures in respect of grantees/project organisers who have repeatedly failed to complete projects/reports on time; and
- (j) the progress made in implementing other audit recommendations.

A. Introduction

The Audit Commission ("Audit") conducted a review of the Quality Education Fund ("QEF") which focused on the following areas:

- governance and strategic management;
- administration of information technology ("IT") equipment projects;
- project management; and
- dissemination and commercialisation of project deliverables.

2. Hon Paul CHAN Mo-po declared that:

- he was a non-executive director of Breakthrough, which was a Christian youth organisation. Breakthrough had applied for QEF funding, but he was not involved in the application and operation of the QEF funded projects;
- he was the Chairman of Friends of Caritas. Some Caritas organisations and schools might have applied for QEF funding, but he was not involved in their operations; and
- he also sat on the advisory board of the accounting department of various universities, but he was not sure whether the departments/universities had applied for QEF funding.

3. Hon Abraham SHEK Lai-him declared that he had been a non-executive director of the Shakespeare 4 All Company Limited, which was a non-profit-making English teaching organisation, from September 2003 to January 2007. He was not involved in the organisation's operation and he did not know if it had applied for QEF funding.

4. Dr Hon Philip WONG Yu-hong, Chairman of the Committee, declared that he was a director of Chu Hai College of Higher Education, but he did not know whether it had applied for QEF funding.

B. Governance and strategic management

5. According to paragraphs 2.3 and 2.4 of the Audit Report, the QEF Steering Committee ("SC") had not laid down the frequency of meetings for the Dissemination and Promotion Sub-committee ("DPS"). Similarly, the QEF Investment Committee ("IC") had not stipulated the number of meetings to be held annually. Table 1 further revealed that on three occasions, the interval between meetings was more than six months. For instance, the interval between the two meetings of the Assessment and Monitoring Sub-committee ("AMS") held on 23-24 March 2004 and 14 October 2004 was as long as 6.7 months. The Committee asked:

- about the frequency of meetings of the SC and the AMS;
- how the Administration ensured that the AMS had sufficient participation in the assessment of funding applications under the QEF, given that the interval between some of the AMS meetings was excessively long; and
- about the internal control measures in place to ensure that the assessment process was fair and public funds were well spent.

6. **Mr Raymond WONG Hung-chiu, Permanent Secretary for Education, and Mrs Michelle WONG YAU Wai-ching, Deputy Secretary for Education,** stated that:

- it was true that on the three occasions identified by Audit, the intervals between meetings were unduly long. Normally, the SC and the AMS held meetings once every three months;
- there were different assessment procedures applicable to funding applications of different scales. For applications involving a grant not exceeding \$200,000, assessments were made once a month. An application would first be vetted by staff of the QEF Secretariat and then assessed by two AMS members by circulation of papers. The whole process would be completed in three months' time;
- for applications involving a grant of more than \$200,000 but not exceeding \$500,000, assessments were made once every three months by three AMS members, who would bring up their assessment results for discussion and approval at a meeting of the AMS;

- for large-scale applications involving a grant of more than \$500,000, they would first be assessed by eight AMS members and the project proposals would then be passed to all AMS members for consideration. Finally, the applications would be presented to the AMS for discussion and approval at its meeting. The whole process would be completed in five to six months' time; and
- the QEF Secretariat had a stringent mechanism for vetting all funding applications before they were considered by the AMS. After an application was forwarded to AMS members for consideration, though by circulation, there were still several rounds of discussions between the members and the QEF Secretariat staff. Moreover, the factors for consideration in assessing an application were already set out in the application form.

7. The Committee further enquired about the Administration's decision regarding Audit's recommendation on the stipulation of a minimum frequency of meetings for the IC and the DPS. **Mr Michael SUEN Ming-yeung, Secretary for Education**, responded in his letter of 1 June 2009 in *Appendix 17* that, subject to the endorsement of the SC at its meeting in July 2009, the IC and the DPS should conduct meetings three and four times respectively in each 12-month period.

8. The Committee noted from paragraphs 2.5 to 2.7 of the Audit Report that the QEF had not specified the quorum requirements for the meetings of the IC, AMS and DPS as well as the number of days prior to a meeting that discussion papers should reach members. Paragraphs 2.15 to 2.17 also revealed that although the SC, IC and DPS met, to a large extent, the criteria for adopting the two-tier reporting system for declaration of interests as set out in the guidelines issued by the Home Affairs Bureau, they only adopted a one-tier reporting system. The Committee asked how the QEF would rectify the situation.

9. The **Permanent Secretary for Education** stated at the public hearing and the **Secretary for Education** in his letter of 1 June 2009 that:

- the IC, AMS and DPS had all along followed the SC's practice on quorum requirement, but this was not documented. Subject to the SC's endorsement at its meeting in July 2009, the IC, AMS and DPS would document and observe the existing practice whereby the quorum should be constituted by at least 50% of the membership of the committee or sub-committees concerned. Moreover, the discussion papers for respective committees and sub-committees would be made available to members five working days before the meetings; and

- the Administration agreed that the SC, IC and DPS should adopt the two-tier reporting system for declaration of interests and would seek their endorsement in this respect.

10. According to paragraphs 2.11 and 2.12, the attendance rate of three members at the DPS meetings was on the low side, ranging from 29% to 47% since their appointment to January 2009. It appeared to the Committee that apart from their expertise and experience, the members' commitment to the work of the DPS was also important in order that the DPS's responsibilities could be fulfilled. The Committee asked whether the Administration would:

- take into account the attendance records of the members when considering their reappointment to the QEF committees and sub-committees; and
- consider devising a mechanism for publishing the attendance rate of members at the QEF committee and sub-committee meetings, such as on the QEF website, so as to allow monitoring by the public.

11. The **Permanent Secretary for Education** responded that:

- a member's attendance record was an important factor for consideration in deciding on the reappointment of a serving member to the QEF committees and sub-committees; and
- at present, the QEF Secretariat would remind those members whose attendance rate began to decline, hoping that they would make a greater effort to attend meetings. The QEF Secretariat would consult the committees and sub-committees regarding the proposal to publish members' attendance rate at meetings.

12. The Committee noted from paragraph 2.43 of the Audit Report that the QEF had not established any outcome targets and indicators that could help measure its effectiveness. Noting that since its establishment in January 1998 to August 2008 (i.e. end of the 2007-2008 school year¹), the QEF had approved 7,434 projects with grants amounting to \$3,620 million, which was a huge sum, the Committee asked how the Administration measured the QEF's effectiveness and ensured that the QEF achieved its objective.

¹ Unless otherwise specified, all years mentioned hereinafter refer to school years which commence on the first day of September.

13. The **Permanent Secretary for Education** said that it was difficult to measure the overall performance of the QEF because certain achievements could not be quantified. However, the QEF would seriously explore the feasibility of establishing performance measures, including the number of QEF funded projects that could achieve their preset targets and whether stakeholders were satisfied with the projects.

14. It was mentioned in paragraph 1.7 of the Audit Report that the QEF had identified project themes to address prevailing educational priorities. The QEF gave priority consideration to applications which were in line with the identified themes. Currently, there were 11 project themes, including moral and civic education, as well as national education. The Committee asked about the QEF's criteria and guidelines for deciding whether an application under a project theme, such as national education, should be approved and how the QEF evaluated whether the intended objectives of the approved project were achieved.

15. The **Permanent Secretary for Education** responded that:

- the QEF projects were school-based initiatives. The QEF encouraged funding applications from schools as they could initiate proposals that best suited their needs, circumstances and stage of development. In their applications, the schools were required to state the targets of the proposed projects. All applications were assessed in a fair and impartial manner. The QEF would consider whether the proposed projects met the QEF's objective of promoting quality school education, their impact on teachers and schools, feasibility, etc; and
- the purpose of introducing project themes was to address the prevailing needs of school education. Projects under the same theme could take a variety of forms and have various contents. Taking the project theme of "national education" as an example, some schools promoted national education through a school subject, while others promoted it by launching extra-curricular activities.

16. In response to the Committee's request, the **Secretary for Education** provided, in his letter of 1 June 2009, the number and percentage of projects approved as well as the amount and percentage of funding granted for each of the 11 project themes adopted from April 2008 to February 2009, as referred to in Note 3 in paragraph 1.7 of the Audit Report.

17. The Committee noted that whilst the primary objective of the QEF was to promote quality education at all levels, the proportion of projects and funding for the pre-primary sector was low. As commented by Audit in paragraph 2.39 of the Audit Report, the additional support given to the pre-primary sector might not have been fully effective in encouraging applications for the sector. The Committee enquired whether the QEF would consider setting a proportion of projects and funding for the pre-primary sector, or introduce other measures to ensure that pre-primary education would also benefit from the QEF.

18. The **Permanent Secretary for Education** replied that:

- the QEF had no intention to set a proportion of projects and funding for different sectors, including the pre-primary sector, so as not to limit the amount of funding that could be granted to well-deserved projects for different sectors; and
- the QEF would provide special support for those sectors that needed assistance. For the pre-primary sector, the QEF would take various measures, including the conduct of tailor-made consultation sessions and briefing for the front-line teachers of kindergartens and child care centres, with a view to helping them to apply for QEF funding.

C. Administration of IT equipment projects

19. The Committee noted from paragraphs 3.6 and 3.7 of the Audit Report that in April 2004, details of the QEF matching grant were deliberated by the SC. However, when seeking the Finance Committee ("FC")'s approval for the non-recurrent grant of \$126.5 million, the Administration did not provide information about the QEF matching grant in the FC paper (FCR(2004-05)27) of July 2004. As information about the matching grant was important to the FC in its consideration of the funding proposal, the Committee asked why the Administration did not explicitly provide the information in the FC paper.

20. The **Secretary for Education** and the **Permanent Secretary for Education** stated that:

- the Administration agreed that information about the matching grant was important and relevant to the FC's consideration of the funding proposal and should have been provided in the FC paper. In fact, in June 2004, one month before the FC meeting, during the discussion of the funding for the IT in Education Strategy at the meeting of the Panel on Education, the then Deputy Secretary (Education and Manpower) had informed the Panel of the matching grant. Having searched the records, the Administration could not find out

the reason why the information was not included in the FC paper. It was unfortunate that there was such an omission; and

- staff of the Education Bureau would be reminded to include all relevant information in the papers to the FC and other committees. The Administration would try its best to ensure that similar incidents would not recur in future.

21. According to paragraphs 3.11 and 3.12 of the Audit Report, in February 2007, the SC deliberated the introduction of a new project theme, namely "Use of new technology for school administrative work". Under this project theme, schools could apply for funding, e.g. installation of a smart card system to take student attendance, for reducing the administrative burden of teachers. Nevertheless, up to the end of 2007-2008, the QEF only received 429 applications. 425 applications totalling \$45 million were approved. About two-thirds of the 1,200 eligible schools had not yet applied for funding under this project theme.

22. The Committee queried:

- why the number of applications for funding under this project theme was so unsatisfactory, despite its clear target to alleviate teachers' workload; and
- whether the low application rate reflected that the Administration had not proactively encouraged schools to apply for funding under this project theme.

23. In his letter of 1 June 2009, the **Secretary for Education** stated that:

- "Use of new technology for school administrative work" was one of the annual project themes of QEF project applications and it was not a mandatory requirement for all schools to apply for projects under this theme. QEF projects were school-based initiatives that met the development needs and interest of the schools concerned. It was not expected that all schools would adopt such new technology in view of the different needs of individual schools;
- since the introduction of this project theme in March 2007, the QEF Secretariat had organised various activities to promote the theme, including annual briefing sessions for schools, and seminars for school sponsors and education bodies. Moreover, proposals of successful applications were posted on the QEF Cyber Resource Centre for reference of other schools; and

- the number of applications for this project theme was amongst the highest of all the project themes. The number of applications progressed steadily and the number of applications under this project theme had increased to about 500 in May 2009.

24. To ascertain the underlying reason for the low application rate under this project theme, the Committee asked:

- about the estimated recurrent costs of the smart card system;
- the procedure for applying for funding under this project theme; and
- whether the small number of applications was due to the high recurrent costs of the smart card system, which would not be borne by the QEF (as mentioned in Note 7 in paragraph 3.11 of the Audit Report), or the burdensome application procedure.

25. The **Secretary for Education** informed the Committee in his letter of 1 June 2009 that:

- the recurrent costs of the smart card system varied depending on the choice of system and vendor. The average yearly recurrent cost was about \$8,000 per school;
- the application procedure for applying for funding under this project theme was generally the same as that for other project types. In view of the nature of this project theme, the information details required from applicant schools had been simplified to facilitate applications;
- informal exchanges with schools revealed that some school heads had generally found the existing administrative and management computer system (i.e. Web-based School Administration and Management System) developed by the Education Bureau adequate in serving the needs of their schools and thus a new system with additional functionalities was not required. Some had expressed concerns over various administrative issues such as loss of the smart cards or students' misuse of the Octopus cards; and
- the QEF Secretariat would continue to address concerns of schools and encourage them to consider applying for funding under this project theme through further briefings and dissemination activities.

D. Project management

26. The Committee noted from paragraphs 4.4 to 4.10 of the Audit Report that the conditions of the QEF grant required grantees to report project progress regularly to the QEF. To ensure the timely submission of monitoring reports, the QEF Secretariat issued reminders to grantees and took follow-up actions. However, in 2007-2008, of the 1,613 monitoring reports due for submission, 861 (53%) were not submitted until the QEF Secretariat issued reminders. In paragraph 4.11(b), Audit recommended that the Secretary for Education should consider taking more effective measures to deter repeated delays in the submission of monitoring reports. For example, the QEF might take into account the number of first and second reminders issued when considering the assignment of an "unsatisfactory label" to grantees, or implement a retention money system for withholding grant payments.

27. The Committee further referred to paragraph 4.12 of the Audit Report in which the Secretary for Education said, among others, that the QEF Secretariat had to maintain the balance between the need to tighten the reminder system and the actual circumstances, and that the QEF would consider carefully the implications of the proposed retention money system on the grantees. It appeared to the Committee that the above response was not positive. The Committee therefore queried:

- whether the Administration sincerely accepted Audit's recommendations, which aimed to ensure the grantees' timely submission of monitoring reports and improve the effectiveness in project monitoring;
- about the factors that the QEF Secretariat would consider in maintaining the balance between the need to tighten the reminder system and the actual circumstances; and
- whether and how the QEF would implement the retention money system.

28. The **Permanent Secretary for Education** said at the public hearing and the **Secretary for Education** in his letter of 1 June 2009 that:

- the Administration recognised the importance of increasing the effectiveness and efficiency of project monitoring, which were mainly achieved by ensuring the grantees' timely submission of the progress reports and financial reports every six months, as well as administering the reminder systems for non-compliance cases;

- there were two issues that some schools might encounter difficulties. First, in the actual implementation of the projects, there were always school-specific circumstances that might result in some unavoidable delay of the schools' original working schedules. Such circumstances might include the change of team membership because of staff turnover, and need to redeploy staff from the project team to address changes in priorities of the school during the school year. Second, the projects were normally led by serving teachers who had to deliver their daily teaching services in addition to the administration of the projects. There was room for improving the reporting system so that the teachers' workload in taking forward the QEF projects could be minimised while maintaining effective monitoring of the projects;
- against the above background, to maintain the balance between the need to tighten the reminder system and the actual circumstances, the QEF would examine whether it was appropriate to refine the existing arrangements under which all grantees, irrespective of the background (including the levels of grants they received, scale of projects and their track record), should follow the same six-month reporting requirement. The QEF would examine the feasibility of requiring some types of grantees that were of lower-risk or met certain specified conditions to submit progress reports and financial reports every nine or 12 months instead. For those grantees to which the six-month requirement should apply, the QEF would enforce the prevailing monitoring mechanism. Besides, as an overall strategy, the QEF would enhance the monitoring mechanism by spelling out clearly the consequences of late submission in its correspondence with the grantees from the early stage;
- regarding the retention money system, withholding grant payments would affect the grantees as they had to pay salary to the staff concerned and other expenses of the projects. If the amount to be withheld was large, small institutions would be deterred from making applications. Hence, a certain degree of flexibility was necessary. The QEF would consider the feasibility of holding up 5% to 10% of the non-staff-cost subsidy, which was to be released after the grantee had submitted the project-end final report and final financial report; and
- the QEF Secretariat would consult the SC on the proposed arrangements set out above.

29. Regarding the control over project expenditure, the Committee noted from paragraph 4.20 of the Audit Report that of the 23 applications for reallocation of funds approved from July 2007 to June 2008, 16 (70%) were applications for covering approval. In all the 16 applications, the QEF Secretariat did not issue any warnings to the grantees. The Committee enquired how the QEF Secretariat would tighten the control on reallocation of funds in future.

30. The **Permanent Secretary for Education** and the **Deputy Secretary for Education** stated that:

- the QEF would continue to remind grantees of the need to seek prior approval for fund reallocation; and
- the QEF Secretariat would issue a reminder to a grantee who failed to comply with the requirement. A grantee's record of failing to obtain prior approval would serve as a reference in evaluating its performance and affect its future applications for QEF funding. Such consequence would be stated clearly in the reminder issued to the grantee.

31. On the methodology for vetting the financial reports of projects, the Committee noted Audit's comments in paragraph 4.27 of the Audit Report that the QEF audit team should take into account the risk profile of different grantees (e.g. their management styles and internal control procedures) in determining the extent of vetting. The Committee asked how the QEF would implement the recommendation.

32. Noting that some staff of the QEF audit team did not have formal training in auditing or accounting, the Committee asked whether the Administration would consider enlisting the support of the Treasury or Audit to provide basic training to the staff concerned. The QEF might also consult the professional staff of the Treasury or Audit on how to implement the risk-based approach in vetting financial reports.

33. The **Permanent Secretary for Education** undertook to consider the above suggestion. He also stated that the QEF agreed with Audit that the audit team should adopt a more risk-based approach in vetting financial reports, so as to focus its efforts on vetting those that were more error-prone. There were professional accountants in the QEF audit team but their number was insufficient. The QEF would consider the ways to provide training to staff of the audit team and discuss with the professional staff how to take forward Audit's recommendation.

34. The Committee asked how the QEF monitored the grantees to ensure that the funded projects could achieve the objectives specified in the applications. The **Permanent Secretary for Education** explained that:

- the QEF requested the applicants to state in their applications the project objectives as well as the indicators for evaluating whether the objectives had been achieved. In assessing the applications, the QEF would take into consideration whether the indicators for evaluation were clear; and

- after a project had commenced, the QEF monitored its performance through various means, such as requiring the grantees to report on project progress. Monitoring visits to the grantees by QEF Secretariat staff and members of the SC and the AMS would also be conducted. The grantees might even be invited to present their projects to members of the SC and the AMS. When necessary, experts like the academics from universities would be invited to assist in monitoring the effectiveness of a project.

35. The Committee pointed out that whilst it was important to step up control over project expenditure and project management, in assessing whether a grantee's future applications for QEF funding should be approved or whether a grant payment should be made to a grantee as scheduled, apart from the grantee's degree of compliance with the QEF's guidelines and requirements, the QEF should also take into account the effectiveness of the previous projects launched by the grantee. The Committee asked whether the QEF had the practice of conducting surveys to gauge the beneficiaries' views on the effectiveness of a funded project.

36. The **Deputy Secretary for Education** responded that:

- during the implementation of a project, a grantee was required to submit half-yearly progress reports and interim financial reports until the project was completed. The grantee was also required to conduct self-evaluation on different areas according to the preset objectives of the project to measure if the objectives had been achieved. After the completion of the project, the QEF Secretariat would consolidate the self-evaluations by the grantee;
- in evaluating a project, the QEF would take into account the qualitative aspect, such as the project's impact on teachers and schools as well as the experience gained by the school head or teachers during project implementation; and
- the QEF would consider introducing other measures to gauge the effectiveness of a project, such as by conducting satisfaction surveys and questionnaire surveys.

37. The Committee appreciated that it was undesirable to measure the effectiveness of a funded project solely in a value-for-money perspective. Besides, too many rules and regulations would hinder creativity and increase the burden on the teachers leading the projects as they had to perform other teaching duties. Hence, a certain degree of flexibility in the application and reporting procedures was necessary. The Committee therefore asked:

- how the Administration would strike a balance between the need to maintain accountability in using public funds and the need to avoid creating undue workload for teachers and discouraging potential applicants; and
- whether the application and reporting procedures of the QEF applicable to school applicants were more lenient than those to commercial organisation applicants.

38. The **Secretary for Education** and the **Permanent Secretary for Education** said that:

- the Administration fully shared the Committee's concern and was working hard to strike a balance between accountability and avoidance of creating undue workload for teachers. In fact, the QEF procedures had been simplified following several reviews. For example, at present the QEF accepted applications on a year-round basis instead of by a fixed date, thereby reducing the pressure on teachers due to the need to meet the application deadline. On the other hand, the Audit Report highlighted certain areas for improvement in the QEF's administration which helped to upkeep accountability. The QEF would take follow-up actions as appropriate; and
- schools and commercial organisations were subject to the same application and reporting procedures. In assessing a funding application, an important factor for consideration was the merits of the proposed project.

39. On the management of assets, the Committee noted from paragraph 4.40 of the Audit Report that the QEF did not require grantees to report on the deployment of assets upon project completion. The Committee asked how the QEF would rectify the situation.

40. The **Deputy Secretary for Education** said that under the current arrangement, each grantee was required to keep an asset register showing the deployment of the assets of the project. Audit had identified the area for improvement in this regard, which was probably due to insufficient guidelines in this regard. The QEF would clarify the guidelines and follow up Audit's recommendation.

41. The Committee noted Audit's observation in paragraph 4.44 of the Audit Report that the Operation Manual had not adequately spelt out the guidelines and work procedures of the QEF. The Committee asked about the frequency of reviewing the Operation Manual, including when it was last updated and when the next update would be.

42. The **Deputy Secretary for Education** said at the public hearing and the **Secretary for Education** in his letter of 1 June 2009 that the Operation Manual was last reviewed in April 2008. Apart from the review, the Manual was also updated from time to time on a need basis, the last time being July 2008. The next annual review had been scheduled for July 2009.

E. Dissemination and commercialisation of project deliverables

43. Regarding the commercialisation of project deliverables, the Committee asked about the reason for implementing a commercialisation strategy, and whether such strategy was in line with the QEF's positioning of catering for worthwhile non-profit-making initiatives within the ambit of pre-primary, primary, secondary and special education.

44. The **Deputy Secretary for Education** explained that:

- the commercialisation strategy was implemented in 2003 when the QEF had been launched for several years. The experience accumulated indicated that many QEF deliverables should be shared among schools or even with users outside Hong Kong. However, schools interested in the project deliverables might not be given sufficient quantity of the deliverables. Also, the public might not know that there were good-quality QEF deliverables that suited them, or might not be able to acquire the deliverables even if they were interested in them. As such, the QEF considered that there was a market for its project deliverables and hence adopted a commercialisation strategy;
- in the past few years, the QEF was trying hard to widen the distribution network for its products, such as selling through post offices and the Government Bookstore on the Internet. However, some sales channels were not yet ready for various reasons. The QEF would continue to explore ways to widen the dissemination of QEF products so that they could reach a wider spectrum of potential users, particularly parents; and
- the objective of commercialisation was not to make profit, but to widen the distribution net and to ensure that the project deliverables were acquired by those in need. It was also decided that the prices of the saleable products should be pitched at a level affordable by the prospective clients and able to recover just the basic costs borne by the QEF.

45. According to paragraphs 5.21 to 5.24 of the Audit Report, in 2006, the QEF approved a grant of \$3.3 million for a commercial organisation (Grantee 6) to undertake a project to help enhance students' Chinese language ability and knowledge in Chinese culture (Case 6). However, the QEF had not established a clear and mutually agreed mechanism with Grantee 6 to ensure that it would charge fees at a reasonable and affordable level after completing its project. For instance, while Grantee 6 undertook to set the annual fee for using the reading platform at a level for its operation to break even, the QEF had not agreed with Grantee 6 on the types and extent of expenditure (e.g. administrative overhead) which the operation would bear.

46. As the cost of a project could include both direct and indirect costs, the Committee asked whether the QEF had agreed with Grantee 6 how its cost was to be determined. The **Deputy Secretary for Education** stated that as the project had just completed, the QEF was still discussing with Grantee 6 the level of services fees to be paid by schools for using the reading platform, with a view to ensuring that the fees would be reasonable and affordable.

47. The Committee further enquired:

- about the rationale for approving the project proposal of Grantee 6, which was a commercial organisation;
- about the current arrangements for setting the service fees charged by the Grantee 6 at a level which would be reasonable and affordable to schools; and
- whether the DPS had considered taking measures to ensure that, when entering into arrangements with commercial organisations for the commercialisation of QEF products, the products would be made available to schools at a reasonable and affordable price.

48. In his letter of 1 June 2009, the **Secretary for Education** informed the Committee that:

- the project proposal was supported in view of its innovative ideas relating to the development of e-resources, overall benefits to the education sector and its potential to sustain by commercial means the use of state-of-the-art technology in that new area of development;

- it was noteworthy that the SC had endorsed the Objectives and Plans of the QEF for 2006-2008 in which partnership with the private sector was one of the objectives (i.e. Objective 3 - "To encourage collaboration amongst schools, Government, non-government organisations and the private sector in the furtherance of quality education"). Under this objective, it was agreed that priority would be given to applications that encouraged or resulted in closer and more varied collaboration;
- the proposed service fees charging plan from the grantee would be vetted by the QEF Secretariat and circulated to the SC for endorsement. Any proposal should be considered with due regard to the contextual background of individual cases against the requirements of affordability and sustainability of the service;
- the main purpose for commercialisation was for wider dissemination of QEF deliverables, not for profit making. All business proposals for the commercialisation of QEF project deliverables would be deliberated by the DPS considering the reasonable pricing of the items to be commercialised and the benefits that the commercial activities would bring for the wider dissemination of QEF project deliverables. Moreover, the QEF Secretariat in general used the formulae as set out in Note 13 in paragraph 5.11 of the Audit Report for determining the retail prices of products sold via commercial outlets; and
- taking into account of the latest development of commercialisation, the DPS would consider taking further measures to ensure that the pricing strategy of QEF products would facilitate the availability of products to schools at a reasonable and affordable price. Proposed measures would be presented for discussion at the DPS meeting scheduled for October this year.

49. To obtain a better understanding of the policy on commercialisation of QEF project deliverables, the Committee asked:

- whether the part of the agreement between the QEF Trustee and Grantee 6 on QEF project deliverables, as referred to in paragraph 3 of Appendix H of the Audit Report, was based on any established policies or ad hoc considerations applicable to a project with commercial potential; and
- what the policies or considerations were and how they were determined.

50. The **Secretary for Education** responded in his letter of 1 June 2009 that:

- the general policy of granting QEF projects was that all deliverables generated from the projects should remain the exclusive property of the QEF and be made available to the beneficiaries concerned free of charge. However, if the grantee or a third party wished to invest in the redevelopment of QEF deliverables for commercial distribution subsequent to the project period, the existing policy was that the QEF could grant the right to use the copyright of the deliverables and charge royalty amounting to 10% of the proceeds of the commercial deliverables; and
- regarding Case 6 in the Audit Report, the AMS and the SC deliberated the case and developed the agreement on QEF project deliverables with reference to the general policy of granting QEF projects and the policy on commercialisation of QEF deliverables. It had been stipulated in the agreed project proposal attached to the agreement that the organisation should, among others, continue to provide users free-of-charge access to the 50 e-books; levy an annual service fee that was to be formulated on a balanced income and expenditure basis for using the additional functionalities of the e-platform; pay to the QEF a royalty amounting to 10% of the gross proceeds in respect of schools' use of the new e-books to be developed and the e-platform functions. The QEF would continue to monitor the service fee to be charged by the grantee and ensure that the agreed basis of charging was followed.

51. Turning to the copyright of QEF project deliverables, the Committee asked whether the copyright belonged to the QEF or the grantees concerned. The **Deputy Secretary for Education** said that the project deliverables could be a set of teaching materials and compact disks, etc. Having obtained legal advice, the QEF decided that it should own the copyright of the deliverables of the projects developed with QEF funding. This arrangement was stipulated in the agreement between the QEF and the grantee. The project deliverables might be distributed to interested schools or sold through various channels.

52. The Committee further asked:

- why the QEF considered it necessary to own the copyright instead of sharing it with the grantee who developed the project deliverables, so as to encourage creativity and attract application from commercial organisations;
- whether any project applicants and grantees had ever requested to retain the copyright of the project deliverables; and

- about the arrangement for the grantees to use or adapt the deliverables developed by themselves.

53. The **Deputy Secretary for Education** replied at the public hearing and the **Secretary for Education** in his letter of 1 June 2009 that:

- since the QEF Secretariat's implementation of the copyright policy, there had been no request from project applicants and grantees to retain the copyright of the project deliverables;
- to take forward the QEF's policy intent to disseminate extensively QEF products for sharing and promotion among stakeholders such as teachers and parents, as well as the general public, the QEF was the exclusive owner of the ownership and copyright of all deliverables so created as a result of the projects funded by the QEF. That arrangement aimed to facilitate editing, repackaging or commercialisation of QEF products for wider dissemination purposes, avoiding any users from infringing the copyright with possible legal liability;
- notwithstanding the above copyright arrangement, the QEF Secretariat had been implementing the following measures to facilitate the adaptation, distribution and further development or research relating to the QEF deliverables by different genuine users:
 - (a) allowing grantees to use any project materials beyond the project period as long as the use was in step with the project objectives stated in the project agreement; and
 - (b) granting relevant parties the right to use the copyright of the QEF project deliverables for other purposes subject to the individual merits of respective proposals. In the past, the QEF had granted licences to an organisation for the redevelopment of the teaching resources derived from two QEF projects with royalty payable to the QEF from the sale of the two teaching packages thus redeveloped. Besides, the QEF had also granted a contractor commissioned by the Education Bureau the right to use the QEF deliverables for producing free Chinese Language bridging course materials for non-Chinese speaking children; and
- the QEF would continue to implement the above measures to facilitate users in using the copyright of QEF deliverables as the case merited.

54. The Committee further asked about the number and percentage of project proposals by "commercial organisations" that had been approved since the QEF's establishment, and the nature of such organisations (e.g. non-governmental organisations).

55. In his letter of 1 June 2009, the **Secretary for Education** advised that since the establishment of the QEF in 1998, 99 projects had been granted to corporate organisations registered under the Companies Ordinance, accounting for 1.3% of the total number of QEF projects approved over the years. The 99 projects were from 54 organisations, 30 of which were of charitable organisation status, including three non-governmental organisations.

F. Conclusions and recommendations

56. The Committee:

Promotion of quality school education

- considers it is important that:
 - (a) as the Quality Education Fund ("QEF") has been established for more than 11 years with the objective of promoting quality school education at all levels, the Administration should evaluate regularly whether and how the QEF on the whole and on a project basis has been able to achieve its objective; and
 - (b) the application and reporting procedures of the QEF should be as simple and user-friendly as possible and in any event not be so burdensome as to become a disincentive to potential applicants and create undue workload for teachers, provided that accountability is not undermined;

Governance and strategic management

- expresses concern that:
 - (a) the QEF Steering Committee ("SC") has not laid down the frequency of meetings for the Dissemination and Promotion Sub-committee ("DPS"). Similarly, the QEF Investment Committee ("IC") has not stipulated the number of meetings to be held annually;
 - (b) the QEF has not specified the quorum requirements for the meetings of the IC, Assessment and Monitoring Sub-committee ("AMS") and DPS;

- (c) the QEF has not specified the number of days prior to a meeting that discussion papers should reach members, and 17 (50%) of the papers discussed at Committee and Sub-committee meetings in 2006-2007 and 2007-2008 were sent to members two calendar days or less before the meetings;
 - (d) the attendance rate of three members at DPS meetings was on the low side (29% to 47% from their appointment to January 2009);
 - (e) the SC, IC and DPS adopt a one-tier reporting system for declaration of interests, despite the fact that they meet, to a large extent, the criteria for adopting the two-tier reporting system set out in the guidelines issued by the Home Affairs Bureau;
 - (f) a QEF application involving a grant not exceeding \$200,000 is only required to be assessed by two AMS members by circulation of papers, and the AMS's participation in the assessment of such funding applications may be insufficient;
 - (g) the AMS's business plan for 2007-2008 did not provide an estimate of the financial resources required to accomplish the strategic objectives;
 - (h) the QEF's annual budget does not include the AMS's budget on grant payments;
 - (i) the proportion of projects and funding for the pre-primary sector was low; and
 - (j) the additional support given to the pre-primary sector might not have been fully effective in encouraging applications for the sector;
- acknowledges that:
- (a) the IC, AMS, and DPS have followed the SC's practice on quorum requirement. The QEF will document the practice and continue to observe the requirement;
 - (b) the QEF does not intend to set a proportion of projects and funding for different sectors, including the pre-primary sector, so as not to limit the amount of funding that can be granted to well-deserved projects for different sectors; and
 - (c) the Secretary for Education accepts the audit recommendations in paragraphs 2.8, 2.13, 2.18, 2.24, 2.32, 2.40 and 2.45 of the Audit Report;

- urges the Secretary for Education to:
 - (a) review the arrangement for assessment of funding applications, having regard to the need to increase the AMS's participation in the assessment of applications involving a grant not exceeding \$200,000 while maintaining the efficiency of the assessment process;
 - (b) proactively explore more effective ways to encourage applications from the pre-primary sector; and
 - (c) expeditiously implement the above audit recommendations;

Administration of information technology equipment projects

- regrets that although the details of the QEF matching grant were deliberated by the SC in April 2004, the Education Bureau did not provide information about the matching grant in the Finance Committee ("FC") paper (FCR(2004-05)27) of July 2004 when seeking the FC's approval for funding to implement the Information Technology in Education Strategy;
- expresses serious concern:
 - (a) that although the project theme "Use of new technology for school administrative work", introduced by the SC in March 2007, has a clear target to alleviate teachers' workload, up to the end of the 2007-2008 school year, about two-thirds of the 1,200 eligible schools had not yet applied for funding under this project theme; and
 - (b) about whether reception of the above project theme by eligible schools has been effectively monitored since its introduction two years ago, as there have only been informal exchanges with schools to find out the reasons for the low application rate;
- acknowledges:
 - (a) the Secretary for Education's admission that it was an omission on the part of the Education Bureau that information about the matching grant was not provided in the FC paper (FCR(2004-05)27) of July 2004;
 - (b) the number of applications under the project theme "Use of new technology for school administrative work" has increased to about 500 in May 2009; and
 - (c) the Secretary for Education accepts the audit recommendations in paragraphs 3.8 and 3.13 of the Audit Report;

- urges the Secretary for Education to:
 - (a) ensure that the Education Bureau will provide all relevant information to the FC when seeking its funding approval;
 - (b) take measures to address the concerns of schools about using new technology for school administrative work, so as to encourage schools to apply for funding under the project theme "Use of new technology for school administrative work"; and
 - (c) actively engage the potential beneficiaries of a project theme after its launching and carry out timely evaluation, so as to understand their concerns earlier and optimise the utilisation of the project theme;

Project management

- considers that it is of the utmost importance that a QEF funded project can achieve the intended objectives specified in the application. In assessing whether a grant payment should be made to a grantee as scheduled, the QEF should not only focus on the grantee's degree of compliance with the QEF's guidelines and requirements on project management, but also on the effectiveness of the project in achieving its objectives, particularly from the beneficiaries' perspective;
- expresses concern that:
 - (a) in 2007-2008, of the 1,613 monitoring reports due for submission, 861 (53%) were not submitted until the QEF Secretariat issued reminders;
 - (b) the QEF has not formalised the procedures for seeking endorsement of the relevant QEF authorities for variations of project deliverables;
 - (c) of the 23 applications for reallocation of funds approved from July 2007 to June 2008, 16 (70%) were applications for covering approval. The QEF Secretariat did not issue any warnings to the grantees in all the 16 applications;
 - (d) regarding the vetting of financial reports of projects:
 - (i) the number of financial reports pending vetting by the QEF audit team had increased from 205 at the beginning of 2005-2006 by 355% to 932 at the end of 2007-2008;

- (ii) the current methodology adopted by the QEF audit team for the vetting work is not conducive to focusing its effort on vetting financial reports that are more error-prone; and
- (iii) the QEF basically relied on its audit team to vet the financial reports of almost all projects. However, some staff of the audit team did not have formal training in auditing or accounting;
- (e) non-compliances with the General Guidelines issued by the QEF were noted during Audit Commission's visits to five grantees;
- (f) the number of field audits conducted by the QEF audit team decreased from 76 in 2005-2006 by 66% to 26 in 2007-2008;
- (g) the QEF does not require grantees to report on the deployment of assets upon project completion; and
- (h) the Operation Manual has not adequately spelt out the guidelines and work procedures of the QEF;
- acknowledges that:
 - (a) the QEF will continue to remind grantees of the need to seek prior approval for fund reallocation; and
 - (b) the Secretary for Education accepts the audit recommendations in paragraphs 4.11, 4.16, 4.21, 4.29, 4.37, 4.41 and 4.45 of the Audit Report;
- urges the Secretary for Education to:
 - (a) identify ways to simplify the reporting procedure of the QEF, so as not to create undue workload for the grantees;
 - (b) conduct surveys to gauge the beneficiaries' views on the effectiveness of a funded project;
 - (c) take into account the survey results and a grantee's record of seeking prior approval for fund reallocation in deciding whether a grant payment should be made to a grantee as scheduled and whether other QEF applications from a grantee should be approved;
 - (d) take effective measures to encourage prompt submission of monitoring reports, such as by linking the releases of grant payments with a grantee's timeliness in submitting reports;

- (e) adopt a risk-based approach in vetting the financial reports, taking into account the risk profile of different grantees in determining the extent of vetting; and
- (f) provide formal training in auditing and accounting to staff of the audit team;

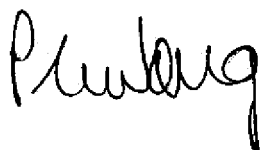
Dissemination and commercialisation of project deliverables

- expresses concern that:
 - (a) the QEF does not require grantees to provide details of the mechanism for distributing project deliverables;
 - (b) the QEF has followed the 2005 pricing guidelines in setting prices for products sold via commercial outlets. However, the QEF Secretariat had not obtained the endorsement of the DPS for the 2005 pricing guidelines; and
 - (c) the QEF has not established a clear and mutually agreed mechanism with a commercial organisation (Grantee 6) to ensure that it would charge fees at a reasonable and affordable level after completing its project. For instance, while Grantee 6 undertook to set the annual fee for using the reading platform at a level for its operation to break even, the QEF had not agreed with Grantee 6 on the types and extent of expenditure (e.g. administrative overhead) which the operation would bear;
- acknowledges that:
 - (a) the QEF is discussing with Grantee 6 the level of service fees to be paid by schools for using the reading platform, with a view to ensuring that the fees would be reasonable and affordable; and
 - (b) the Secretary for Education accepts the audit recommendations in paragraphs 5.5, 5.14, 5.19 and 5.25 of the Audit Report;
- urges the Secretary for Education to:
 - (a) expeditiously finalise the discussion with Grantee 6 on the level of service fees to be paid by schools for using the reading platform and ensure that the fees are reasonable and affordable; and
 - (b) expeditiously explore measures to ensure that QEF products are made available to schools at a reasonable and affordable price when the QEF enters into arrangements with commercial organisations for the commercialisation of QEF products;

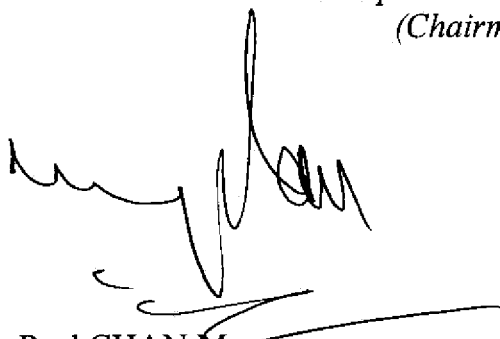
Follow-up actions

- wishes to be kept informed of:
 - (a) the decision made regarding the proposed review on the arrangements for assessing applications, having regard to the need to increase the AMS's participation in the assessment of applications involving a grant not exceeding \$200,000 while maintaining the efficiency of the assessment process;
 - (b) the ways identified by the QEF to encourage applications for the pre-primary sector;
 - (c) the measures taken to address the concerns of schools about using new technology for school administrative work, so as to encourage schools to apply for funding under the project theme "Use of new technology for school administrative work";
 - (d) the decision made regarding the proposed engagement of the potential beneficiaries of a project theme after its launching and carrying out of timely evaluation, so as to understand their concerns earlier and optimise the utilisation of the project theme;
 - (e) the ways to simplify the reporting procedure of the QEF, so as not to create undue workload for the grantees;
 - (f) the measures taken to encourage prompt submission of monitoring reports, such as by linking the releases of grant payments with a grantee's timeliness in submitting reports;
 - (g) the decision made regarding the proposed adoption of a risk-based approach in vetting the financial reports of projects;
 - (h) the result of the discussion with Grantee 6 on the level of service fees to be paid by schools for using the reading platform;
 - (i) the measures taken to ensure that QEF products are made available to schools at a reasonable and affordable price when the QEF enters into arrangements with commercial organisations for the commercialisation of QEF products; and
 - (j) the progress made in implementing the various audit recommendations.

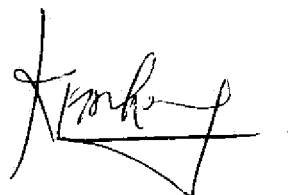
**SIGNATURES OF THE CHAIRMAN,
DEPUTY CHAIRMAN AND MEMBERS OF THE COMMITTEE**



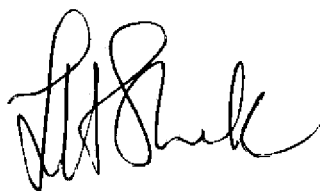
Philip WONG Yu-hong
(Chairman)



Paul CHAN Mo-po
(Deputy Chairman)



Andrew CHENG Kar-foo



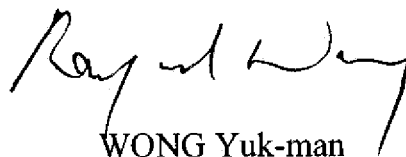
Abraham SHEK Lai-him



Alan LEONG Kah-kit



Starry LEE Wai-king



WONG Yuk-man

18 June 2009

**CHAPTERS IN THE DIRECTOR OF AUDIT'S REPORT NO. 52
DEALT WITH IN THE PUBLIC ACCOUNTS COMMITTEE'S REPORT**

**Director of
Audit's Report
No. 52**

**P.A.C.
Report No. 52**

<u>Chapter</u>	<u>Subject</u>	<u>Chapter</u>
3	Equal Opportunities Commission	1
5	Hong Kong Arts Development Council	2
7	The Quality Education Fund	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.

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

Mr Stephen LAM Sui-lung	Secretary for Constitutional and Mainland Affairs
Mr Raymond TAM Chi-yuen	Under Secretary for Constitutional and Mainland Affairs
Mr Arthur HO Kin-wah	Deputy Secretary for Constitutional and Mainland Affairs
Mr Hubert LAW Hin-cheung	Principal Assistant Secretary for Constitutional and Mainland Affairs
Mr Raymond TANG Yee-bong	Chairperson, Equal Opportunities Commission
Mr Michael CHAN	Director (Planning and Administration), Equal Opportunities Commission
Mr Joseph LI	Director (Operations), Equal Opportunities Commission
Mr Herman POON	Chief Legal Counsel, Equal Opportunities Commission
Dr Ferrick CHU	Head, Policy and Research, Equal Opportunities Commission
Ms Shana WONG	Head (Corporate Communications and Training), Equal Opportunities Commission
Miss Gloria YU	Senior Equal Opportunities Officer (Administration and Personnel), Equal Opportunities Commission
Mr Michael SUEN Ming-yeung	Secretary for Education
Mr Raymond WONG Hung-chiu	Permanent Secretary for Education
Mrs Michelle WONG YAU Wai-ching	Deputy Secretary for Education

Ms Priscilla TO Kit-lai	Administrative Assistant to Secretary for Education
Miss Laureen MAN Wai-ling	Senior Education Officer (Quality Education Fund), Education Bureau
Mr TSANG Tak-sing	Secretary for Home Affairs
Mrs Carrie YAU TSANG Ka-lai	Permanent Secretary for Home Affairs
Mr SO Kam-shing	Deputy Secretary for Home Affairs
Ms Winnie SO Chui-ying	Principal Assistant Secretary (Culture) for Home Affairs
Mr MA Fung-kwok	Chairman, Hong Kong Arts Development Council
Mr Louis YU	Chief Executive, Hong Kong Arts Development Council
Ms Josephine WAI	Director, Arts Support, Hong Kong Arts Development Council

**Introductory Remarks by
Chairman of the Public Accounts Committee,
Dr Hon Philip WONG Yu-hong, GBS,
at the First Public Hearing of the Committee
in respect of the Director of Audit's Report No. 52
on Tuesday, 5 May 2009**

Good morning, ladies and gentlemen. Welcome to the Public Accounts Committee's public hearing relating to Report No. 52 of the Director of Audit on the results of value for money audits, which was tabled in the Legislative Council on 22 April 2009.

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. 52, 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 7 and 12 May 2009 for public hearings on the other chapters.

5. The public hearing this morning is on Chapter 3 of Report No. 52 on the subject of "Equal Opportunities Commission". The witnesses are: Mr Stephen LAM (Secretary for Constitutional and Mainland Affairs), Mr Raymond TAM (Under Secretary for Constitutional and Mainland Affairs), Mr Arthur HO (Deputy Secretary for Constitutional and Mainland Affairs), Mr Hubert LAW (Principal Assistant Secretary for Constitutional and Mainland Affairs), Mr Raymond TANG (Chairperson, Equal Opportunities Commission), and Mr Michael CHAN (Director (Planning and Administration), Mr Joseph LI (Director (Operations)), Mr Herman POON (Chief Legal Counsel), Dr Ferrick CHU (Head, Policy and Research), Ms Shana WONG (Head (Corporate Communications and Training)), and Miss Gloria YU (Senior Equal Opportunities Officer (Administration and Personnel)) of the Equal Opportunities Commission.

6. Please note that except for designated public officers, other persons are not covered by the protection and immunity provided under the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) when addressing the Committee.

7. I now proceed to the public hearing.

LegCo Public Accounts Committee (5 May 2009)

**Report No. 52 of the Director of Audit
Chapter 3: Equal Opportunities Commission**

Speech of the Secretary for Constitutional and Mainland Affairs

Chairman,

We welcome the Director of Audit's Report on the Equal Opportunities Commission.

We respect the autonomy of the Commission, as an independent statutory body, in its internal management and operations. As the Government provides subvention to the Commission for its operation, we attach great importance to the observations and recommendations in the Report of the Director of Audit regarding the governance and administration of the Commission.

We have written to the Chairperson of the Commission to underline the importance for the Commission to carefully consider the observations and recommendations in the Report, and take appropriate follow up actions, including reviewing the internal guidelines, procedures and control mechanisms, with a view to ensuring good governance and efficient and economical use of resources.

We also accept the four recommendations in the report for the Constitutional and Mainland Affairs Bureau. We will take appropriate follow-up actions to implement the recommendations. First, in relation to the recommendation to expedite action to take forward the matter in relation to a proposal to change the post of the Chairperson to a non-executive one, and reinstate the post of Chief Executive Officer, and bring it to a satisfactory conclusion, we are taking follow-up actions. We note that some Members of the Legislative Council expressed strong reservations about the proposal in 2006. We will consult the Constitutional Affairs Panel of the Legislative Council later, and listen to further views expressed by Legislative Council Members regarding the proposal, in order to further deal with the matter.

Secondly, the Report recommended that, when considering the reappointment of EOC members, their attendance rate at Board meetings should be considered. We have recently completed the appointment of the new Board of the Commission. We have fully considered various factors, including the attendance rates of incumbent members, members' abilities, expertise, experience, and commitment to public service, in order to appoint the most suitable persons to be members of the Commission. We will continue to take into account these factors in the appointment of suitable persons in future.

Thirdly, regarding the Memorandum of Administrative Arrangements (MAA) between the Constitutional and Mainland Affairs Bureau and the Commission, we have initiated the discussion with the Commission on the amendments to the MAA last year. We have now reached the final stage of discussions, and the updated draft has been sent to the Commission. We understand that the Commission will finalise the MAA with us as soon as practicable. In future, we will take timely action to update the MAA with the Commission, to reflect changing developments and circumstances.

Fourthly, regarding the performance indicators of the EOC, we are working with the EOC to develop additional indicators, to be reflected in the Controlling Officers' Report next year.

I would like to reiterate that the Government attaches great importance to the Director of Audit's Report. We will maintain close liaison with the Commission to ensure the implementation of the recommendations in the report by the Commission. The Government will render full cooperation with the Public Accounts Committee of the Legislative Council and respond to the Committee's request for information, in order to facilitate the Committee's work.

Thank you, Chairman.



平等機會委員會

EQUAL OPPORTUNITIES COMMISSION

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19/F., Cityplaza Three, 14 Taikoo Wan Road
Taikoo Shing, Hong Kong

網址 Website : <http://www.eoc.org.hk>

Our ref. : EOC/CR/COMM/01

Tel. no. : 2106 2183

Fax. no. : 2511 8224

By Fax

26 February 2009

To: All Members of the Equal Opportunities Commission

Dr. CHENG Kwok-kit, Edwin

Prof. Randy CHIU

Ms CHOI Wai-kam, Virginia

Mrs. CHONG WONG Chor-sar, M.H., J.P.

Mrs. KOO CHEUNG Man-kok, Christine

Ms LAM Kam-yi

Dr. LAW Koon-chui, Agnes, J.P.

Mr. LIU Luk-por, Desmond

Dr. LO Wing-lok, J.P.

Ms TAM Heung-man, Mandy

Mr. Saeed UDDIN, M.H.

Ms Margaret WONG

Mr. YIP Kin-man, Raymond

Ms CHAN Ka-mun, Carmen, J.P.

Ms CHAN Man-ki, Maggie

Mr. LEE Luen-fai

Dear Members,

76th EOC Meeting

Thursday, 19 March 2009 at 2:30 p.m.

This is to confirm that the 76th EOC Meeting will be held on **Thursday, 19 March 2009 at 2:30 p.m.** at the EOC Conference/Training Room.

An agenda for the meeting is enclosed. Relevant discussion papers will be sent to Members shortly.

Will Members please confirm their attendance by completing and returning the attached reply slip on or before **Thursday, 5 March 2009**.

Thank you.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Michael Chan', written in a cursive style.

Michael CHAN

Secretary to EOC Meeting

Encl.

c.c. Management Team, EOC

To: Michael Chan
Secretary to EOC Meeting

Fax. No.: 2511 8224

Tel. No.: 2106 2183

Reply Slip

76th EOC Meeting
Thursday, 19 March 2009 at 2:30 p.m.

Please check as appropriate:

With reference to your letter of 26 February 2009 on the above subject,

- ☐ I will be able to attend the 76th EOC Meeting on 19 March 2009 at 2:30p.m.
- ☐ I will not be able to attend the 76th EOC Meeting on 19 March 2009 at 2:30p.m.

Reasons :

- ☐ local business engagements
- ☐ out of town (either on business trip or on vacation leave)
- ☐ clash of meeting schedules
- ☐ indisposed
- ☐ others (please specify) :
- _____

Signature: _____

Name: _____

Date: _____

Note: Please return the reply slip on or before Thursday, 5 March 2009.

**Agenda for the 76th EOC Meeting
to be held on 19 March 2009 (Thursday) at 2:30 p.m. in the
Equal Opportunities Commission's Conference Room**

1. Confirmation of Minutes of 75th Meeting held on 18 December 2008
2. Matters Arising

Matters Related to EOC's Business (Items 3 – 8)

3. Report on "Thematic Household Survey on Racial Acceptance"
(EOC Paper No. 1/2009) *(For Members' Endorsement)*
4. Seminar on "Gender Equality and Gender Respect – media and
societal culture, where do we go from here"
(EOC Paper No. 2/2009) *(For Members' Information)*
5. Review of Work of EOC in 2008
(EOC Paper No. 3/2009) *(For Members' Information)*
6. EOC's Thematic Work Plan for 2009/2010
(EOC Paper No. 4/2009) *(For Members' Information/ Advice)*
7. Budgeting and Planning for the 7th Series of TV Docu-Drama
(EOC Paper No. 5/2009) *(For Members' Advice)*
8. Reports of the Legal & Complaints Committee, Community
Participation & Publicity Committee, Public Education & Research
Committee and Administration & Finance Committee
(EOC Paper No. 6/2009) *(For Members' Information)*
9. Any Other Business
10. Date of Next Meeting: 18 June 2009



平等機會委員會

EQUAL OPPORTUNITIES COMMISSION

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19/F., Cityplaza Three, 14 Taikoo Wan Road
Taikoo Shing, Hong Kong

網址 Website : <http://www.eoc.org.hk>

Our ref. : EOC/CR/COMM/01

Tel. no. : 2106 2183

Fax. no. : 2511 8224

By Fax

16 March 2009

To: All Members of the Equal Opportunities Commission

Dr. CHENG Kwok-kit, Edwin

Prof. Randy CHIU

Ms CHOI Wai-kam, Virginia

Mrs. CHONG WONG Chor-sar, M.H., J.P.

Mrs. KOO CHEUNG Man-kok, Christine

Ms LAM Kam-yi

Dr. LAW Koon-chui, Agnes, J.P.

Mr. LIU Luk-por, Desmond

Dr. LO Wing-lok, J.P.

Ms TAM Heung-man, Mandy

Mr. Saeed UDDIN, M.H.

Ms Margaret WONG

Mr. YIP Kin-man, Raymond

Ms CHAN Ka-mun, Carmen, J.P.

Ms CHAN Man-ki, Maggie

Mr. LEE Luen-fai

Dear Members,

76th EOC Meeting

Thursday, 19 March 2009 at 2:30 p.m.

Revised Agenda

Please find enclosed a revised agenda for the captioned meeting. EOC Paper No. 7/2009 is newly added and will be tabled for Members' advice at the meeting.

Members' attendance at the aforementioned meeting is greatly appreciated.

Thank you.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Michael Chan', written in a cursive style.

Michael CHAN

Secretary to EOC Meeting

Encl.

c.c. Management Team, EOC

**Agenda for the 76th EOC Meeting
to be held on 19 March 2009 (Thursday) at 2:30 p.m. in the
Equal Opportunities Commission's Conference Room**

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(EOC Paper No. 5/2009) ***(For Members' Advice)***
8. Reports of the Legal & Complaints Committee, Community
Participation & Publicity Committee, Public Education & Research
Committee and Administration & Finance Committee
(EOC Paper No. 6/2009) ***(For Members' Information)***
9. Any Other Business
- * **Terms of Reference of the Legal and Complaints Committee**
 (EOC Paper No. 7/2009) *(For Members' Advice)*
10. Date of Next Meeting: 18 June 2009

* **Revision is in bold.**



本署編號 Our Ref. : (2) in UI/EOC/VFM/0

來函編號 Your Ref. :

24 September 2008

Mr Raymond Tang
Chairperson
The Equal Opportunities Commission
19/F, Cityplaza Three
14 Taikoo Wan Road
Taikoo Shing
Hong Kong

(Fax No.: 2802 0030)

Dear Mr Tang,

Confidentiality requirements regarding value for money audit

The purpose of this letter is to draw your attention to the agreed arrangements between the Public Accounts Committee (PAC) and the Administration in upholding confidentiality of value for money (VFM) audit reports. You are kindly requested to take necessary action to ensure that the Equal Opportunities Commission (EOC), its Committees and staff who are involved in the VFM audit or have access to the VFM audit report (either in draft form or in final version), are made aware of these requirements and abide by them.

Confidentiality of audit investigation and audit report before tabling

Until a VFM audit report is tabled in Legislative Council (LegCo), it is confidential and its circulation should be restricted on a need-to-know basis. Under no circumstances should the EOC, its Committees and staff disclose in public the issues covered in the draft audit report. Even if they are tackled by the media, they should refrain from speaking or confirming the audit issues.

Need to avoid public debate after tabling and before public hearing

During the period between the tabling of the VFM audit report in LegCo and the public hearings by the PAC, any public debate on the audit issues covered in the VFM audit report should be avoided as far as possible. This will ensure that the PAC can carry out public hearings smoothly and in a fair manner. To this end, the EOC, its Committees and staff should refrain from initiating any publicity to counter the audit findings. They may however respond to media inquiries.

If you have any question, please contact the undersigned.

Yours sincerely,



(LEUNG Kwok-kit, George)
for Director of Audit

c.c. Secretary for Constitutional and Mainland Affairs
(Attn: Mr Victor Ng) (Fax: 2840 0657)

財 經 事 務 及 庫 務 局
(庫 務 科)

香 港 下 亞 厘 畢 道
中 區 政 府 合 署



**FINANCIAL SERVICES AND THE
TREASURY BUREAU
(The Treasury Branch)**

Central Government Offices,
Lower Albert Road,
Hong Kong

傳真號碼 Fax No. : 2596 0729
電話號碼 Tel. No. : 2810 2668
本函檔號 Our Ref. : FIN CR 3/2191/09 Pt.1
來函檔號 Your Ref. :

16 February 2009

Mr Raymond Tang
Chairperson
The Equal Opportunities Commission
19/F, CityPlaza Three
14 Taikoo Wan Road
Taikoo Shing
Hong Kong

Dear Mr Tang,

Audit review: Equal Opportunities Commission

The Director of Audit has sent you a draft value for money (VFM) audit report for comment. He will likely include this item in his Report No. 52 which is scheduled for tabling at Legislative Council (LegCo) in April 2009 subject to the agreement of the President, LegCo. I write to bring up for your reference the advice in Financial Circular No. 3/2005 on how such reports should be handled.

There had been extensive leakage of the Director of Audit's Report in the past. LegCo's Public Accounts Committee (PAC) considered that such leakage and the defensive publicity by some Departments prior to PAC's investigations would hamper their function and the effectiveness of the public hearings. To address this, the Administration has agreed to strengthen security of such reports before they are tabled in LegCo. The Chief Secretary for Administration (CS) also personally wrote to PAC Chairman on 11 May 2006, 2 January 2007 and 19 May 2008 respectively to reassure him of the Administration's commitment to maintain the draft VFM audit reports in confidence and give PAC full co-operation.

Paragraph 6 of Financial Circular No. 3/2005 stipulates that, until the VFM report is tabled in LegCo, the draft reports covering individual issues under investigation are confidential. Controlling Officers should restrict the circulation of these drafts on a need-to-know basis and under no circumstances should they disclose in public the issues under investigation. Even if their departments are tackled by the media, they should refrain from speaking or confirming the audit investigations before the tabling of the report. The same rule applies to subvented organisations. After tabling of the report at LegCo and before the public hearings of the PAC, you and your staff should refrain from initiating publicity with a view to countering the Audit findings. You may however respond to media enquiries seeking factual information. These guidelines are also applicable to those officers who are involved in the audit report but have left their posts by the time the Audit Report is tabled in the LegCo.

In view of the increasing concern of PAC on leakage incidents, CS has directed that control over access to audit reports ought to be strictly enforced. You are hence requested to keep a register showing the officers in your office who have been circulated the draft audit report. We have also compiled a checklist "Guidelines for handling draft audit reports" for your reference and action.

Yours sincerely,



(Ms Elsie Yuen)
for Secretary for Financial Services
and the Treasury

c.c. Secretary for Constitutional and Mainland Affairs	(Fax: 2523 4889)
Secretary for Home Affairs	(Fax: 2835 1380)
Permanent Secretary for Constitutional and Mainland Affairs	(Fax: 2840 1528)

Guidelines for handling draft Director of Audit (D of A)'s Reports

Draft D of A reports are of confidential nature until they are tabled in the Legislative Council. Unauthorised disclosure is strictly prohibited and their circulation should be restricted on a **“need-to-know basis”**.

Under no circumstances should the bureaux/departments/subvented organisations disclose in public the issues under investigation. Even if they are tackled by the media, they should refrain from speaking or confirming the audit investigations before the tabling of the report.

Upon receipt of the draft D of A reports, bureaux/departments/subvented organisations should keep a register to record the following details –

- (a) incoming date and office of origin;
- (b) subject officers in your bureau/department/subvented organisation who have been circulated the draft audit report; and
- (c) movements of the draft reports.

Subvented organizations should take the following action in safekeeping, transmission and filing of the draft audit reports -

- (a) the draft D of A reports must be kept in a steel cabinet fitted with locking bar and padlock. The subject officers must not leave the reports unattended and they must keep the reports in cabinet when not in use; and
- (b) apart from despatching by hand of an authorised officer, the draft D of A report should only be transmitted either electronically under encryption or manually inside a sealed single envelope.



平等機會委員會

EQUAL OPPORTUNITIES COMMISSION

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網址 Website : <http://www.eoc.org.hk>

OUR REF.: EOC/CR/GOV/11/01
YOUR REF.: CB(3)/PAC/R52
TEL. NO.: 2106 2123
FAX NO.: 2802 0030

BY FAX 2537 1204 & BY MAIL

19 June 2009

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

Dear Ms CHU,

**The Director of Audit's Report on the
results of value for money audits (Report No. 52)**

"Equal Opportunities Commission" (Chapter 3)

With reference to point (f) in your letter of 5 May 2009, please be informed that at the 80th EOC Meeting held on 18 June 2009, the EOC Board has agreed that its Administration and Finance Committee and the respective Convenors and Deputy Convenors of EOC's three other committees will be tasked with the responsibility for overseeing corporate governance and compliance matters and for following up the recommendations in the Audit Report.

Thank you.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'R. Tang', is written over a horizontal line.

Raymond TANG
Chairperson



平 等 機 會 委 員 會

EQUAL OPPORTUNITIES COMMISSION

APPENDIX 11

香港太古城太古灣道14號太古城中心三座19樓

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OUR REF.: EOC/CR/GOV/11/01
YOUR REF.: CB(3)/PAC/R52
TEL. NO.: 2106 2123
FAX NO.: 2802 0030

BY HAND & BY EMAIL

27 May 2009

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

Dear Ms CHU,

**The Director of Audit's Report on the
results of value for money audits (Report No. 52)**

"Equal Opportunities Commission" (Chapter 3)

Thank you for your letter of 20 May 2009.

As requested, please find attached additional information relating to items (a) to (o) in your aforementioned letter. The information provided is mainly in English and where available, the Chinese version will be provided.

A softcopy of our response will also be sent via email to sywan@legco.gov.hk.

Thank you.

Yours faithfully,

Raymond TANG
Chairperson

Encls.

***Note by Clerk, PAC:** *Replies to Items (b) and (o) not attached.*

Item (a): Complaint Intake Form

At present, the intake decisions are recorded in different documents under the current practice. There is no single 'complaint intake form' placed in a complaint file to record and document the intake decision as recommended in the Australian consultants report.

Intake of complaints is handled by the two Chief Officers in the Operations Division on a rotational basis. Case assignment basically follows a roster system. In the process, the complexity and sensitivity issues as well as legal issues that may be involved are taken into consideration. More experienced officers are assigned with cases of complex nature. As such, there are adjustments in the sequence of case allocation to cater for special need. The special assignment arrangements are recorded by the assigning officer on the weekly roster sheets.

To open a new case, the assigning officer registers an entry in the computerised Complaint Management System (CMS). The system generates a case number and opens a front page for recording key information. To complete the assignment, the following information must be entered---- the names of the complainant, respondent and authorised representatives; initial actions taken or to be taken (e.g. acknowledgement of receipt, arranging interviews); relevant ordinance (e.g. SDO, DDO), ground of discrimination (e.g. pregnancy, disability), areas of activities (e.g. employment, provision of goods), unlawful act (e.g. dismissal, harassment) involved; special issues (e.g. overtime work, transfer, foreign domestic helper, prolonged sick leave); summary of the complaint; and the assignee (i.e. the case officer).

A physical complaint file, which houses the complaint letter/ form and document submitted by the complainant, will then be opened and passed to the Chief Officer supervising the case officer. This supervising officer will then go through the materials and mark instruction and /or advice in the form of file minutes to the case officer (e.g. special circumstances relevant to the particular complaint, need for legal advice or higher level supervision).

At present, the decision and instruction appear in different places. To accommodate Audit Commission's recommendation, the front page of the CMS will be expanded to record the initial and assignment decisions and the rationale behind them, which would then appear as a single document.

Item (c): Regarding the Beijing visit referred to in para 4.7 to 4.18 of the Audit Report:

For (i): the posts of the 9 EOC staff who joined the delegation are:

- ♦ 1 Director (Planning and Administration)
- ♦ 1 Director (Operations)
- ♦ 1 Head, Corporate Communications and Training
- ♦ 1 Head, Policy & Research
- ♦ 1 Chief Equal Opportunities Officer (Operations)
- ♦ 1 Senior Training Officer
- ♦ 1 Senior Corporate Communications Officer
- ♦ 1 Corporate Communications Officer
- ♦ 1 Assistant Legal Counsel

For (ii): size and facilities of the three standards of hotel room hired:

Room	Size	In-room facilities
Standard Room	40 Sq. meters	<ul style="list-style-type: none"> ♦ Bedside Control Panel ♦ Baby Cot (at charge) ♦ Bathrobe/Slipper ♦ Bathroom Amenities
Executive Room <i>(located at another renovated block)</i>	40 Sq. meters	<ul style="list-style-type: none"> ♦ Broadband (at charge) ♦ Complimentary Mineral Water ♦ Daily Newspaper ♦ Hairdryer ♦ Kettle ♦ Minibar (at charge)
Ambassador Suite <i>(cheapest amongst all suites, with Forbidden City View Suites and Executive Suites at a higher rate)</i>	76 Sq. meters	<ul style="list-style-type: none"> ♦ Rollaway (at charge) ♦ Safe Deposit Box ♦ Voicemail Messaging <p><i>Executive floor rooms & suites provide a fax machine as well as bathrooms with bathtub and freestanding shower in addition to the standard features.</i></p>

(source: <http://www.chinabeijinghotel.com>)

Response to Public Accounts Committee's Letter of 20 May 2009 items (d), (e) and (f)

- (d) There were 3 duty visits to Beijing made by 2 former EOC Chairpersons during their tenure as follows:

Former EOC Chairperson (tenure)	Date	Details of Hotel Accommodation
Dr. Fanny CHEUNG Mui-ching (20.5.1996 - 31.7.1999)	March 1997	Apart from EOC Chairperson, 4 Members and 13 staff were on this trip. The EOC Chairperson's hotel room at Friendship Hotel was upgraded to an executive suite at an additional cost of \$4,050, i.e. \$450 per night x 9 nights.
	June 1998	No other delegation members on this trip.
Ms. Anna WU Hung-yuk (1.8.1999 - 31.7.2003)	May 2002	No other delegation members on this trip.

- (e) 26 duty visits were made by the EOC between April 2005 and December 2008, of which 13 duty visits involved the Chairperson, Mr. Raymond TANG Yee-bong. Please refer to Appendix A for details.

- (f)

**No. of Duty Visits made by the EOC Chairpersons Vs
Total No. of Duty Visits made by the EOC office
(including the Chairperson, EOC Members and Staff)
during the respective tenure of the different EOC Chairpersons**

EOC Chairperson (tenure)	No. of Duty Visits		Appendix
	Total No. of Duty Visits made by EOC	Where Chairperson participated	
Mr. Raymond TANG Yee-bong (12.1.2005 - 11.1.2010)	26	/ 13	A

EOC Chairperson (tenure)	No. of Duty Visits		Appendix
	Total No. of Duty Visits made by EOC	Where Chairperson participated	
Dr. Fanny CHEUNG Mui-ching (20.5.1996 - 31.7.1999)	25	/ 18	B
Ms. Anna WU Hung-yuk (1.8.1999 - 31.7.2003)	55	/ 19	C

There were 18 and 19 duty visits made by Dr. Fanny CHEUNG Mui-ching and Ms. Anna WU Hung-yuk respectively. Please refer to Appendices B and C for the places and the purposes. The benefits of the duty visits in general included understanding the latest development and trends in human rights and equal opportunities (EO), exchanging views on human rights and EO issues, explaining EOC's operational experience in implementing the anti-discrimination legislation to overseas counterparts and networking.

Overseas Duty Visits attended by the Chairperson

Item No.	Date	Duration	Purpose	Organiser	Location	No. of attendants/Post
Mr. Raymond Tang (tenure: 12.1.2005 - 11.1.2010)						
2005/06						
1	Apr-05	25/4-1/5/05	The 34th Session of the Committee on Economic, Social and Cultural Rights (ICESCR)	United Nations	Geneva, Switzerland	2 / C/EOC & HPR
2	Jul-05	11-15/7/05	Visits: The State Council Information Office, Ministry of Civil Affairs, Hong Kong and Macao Affairs Office of State Council, State Ethnic Affairs Commission, All-China Women's Federation, Party Academy of Central Committee of CPC, China Disabled Persons' Federation		Beijing, China	18 / C/EOC, DPA, Ag. Dir(Ops), CB, HCCT, HPR, STO1, SCCO2, CCO1, ALC2 & 8 EOC Members
3	Aug-05	28/8-1/9/05	2005 Conference in Commemoration of the 10th Anniversary of the 4th World Conference of Women	All-China Women's Federation and United Nations	Beijing, China	2 / C/EOC & EOC Member
4	Nov-05	12/11/05	Seminar on Family Education	The Women's General Association of Macau	Macau	2 / C/EOC & SCCO2
2006/07						
5	Jul-06	16-20/7/06	Biwako Millennium Framework Stakeholders' Coordination Meeting (BMP-SCM)	United Nations	Bangkok, Thailand	2 / C/EOC & Dir(Ops)
6	Jul-06	16-22/7/06	UN ESCAP Workshop on Regional Follow-up to the Seventh Session and Eighth Session of the Ad Hoc Committee on an International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities	United Nations	Bangkok, Thailand	2 / C/EOC & CLC
7	Aug-06	5-12/8/06	The 36th Session of CEDAW Committee on the Elimination of Discrimination Against Women	CEDAW, United Nations	New York, USA	2 / C/EOC & DPA
8	Nov-06	13-17/11/06	The 14th RI Korea Conference, and the Colloquium on Future of the Human Rights of Persons with Disabilities: the new International Convention on Disability & Strengthening Policy, Process & Institutions	Rehab International Korea	Seoul, Korea	2 / C/EOC & Ag. CA
2007/08						
9	May-07	18/5/07	Visit to The Women's General Association of Macau	The Women's General Association of Macau	Macau	4 / C/EOC, DPA, HCCT and Ag. Dir(Ops)
10	Jun-07	7/6/07	Visit to The Commission Against Corruption of Macao	The Commission Against Corruption of Macao	Macau	4 / C/EOC, DPA, Dir(Ops) and HPR
11	Jun-07	8-12/6/07	Advanced Training Seminar on the Legislation on Promotion of Equal Employment Opportunities	Nanchang University	Nanchang, China	2 / C/EOC and STO1
12	Sep-07	31/8-9/9/07	Study Visit Organized by the Swedish Institute	Swedish Institute	Stockholm, Sweden	2 / C/EOC and CLC
13	Dec-07	1-6/12/07	International Conference on "Democracy and Human Rights in Africa - Role of Human Rights Institutions"	United Nations	Cairo, Egypt	1 / C/EOC

Overseas Duty Visits attended by the Chairperson

Item No.	Date	Duration	Purpose	Organiser	Location	No. of attendants/Post
<u>Dr. Fanny Cheung (tenure: 20.5.1996 - 31.7.1999)</u>						
1996/07						
1	Aug-96	1-4/8/96	Visit to UK HR Commissions	UK HR Commissions	UK	4 / C/EOC and 3 EOC Members
2	Sep-96	15-18/9/96	18th Rehabilitation International World Congress		Auckland, New Zealand	1 / C/EOC
3	Mar-97	18-27/3/97	Training programme in Tsinghua University	Tsinghua University	Tsinghua University, China	18 / C/EOC, DD, CD, SD12, ED2, SG12, SG22, SG13, DPA, DLA, SLO, SP2, 2SPs and 4 EOC Members
1997/98						
4	Jul-97	19-25/7/97	Visit to HREOC	HREOC	Australia	4 / C/EOC, CG1 and 2 EOC Members
5	Sep-97	12-18/9/97	The SME Exposition & Business Forum, Visit to Ontario HR Commission	Ontario HR Commission	Ontario, Canada	1 / C/EOC
6	Sep-97	12-18/9/97	1997 APEC Women Leaders' Network Meeting	APEC	Quebec, Canada	1 / C/EOC
7	Feb-98	22-28/2/98	Asia-Pacific Forum of National Human Rights Institutions Workshop on Media & Public Affairs, Education & Promotion - Principle & Practices		Jakarta, Indonesia	1 / C/EOC
8	Mar-98	9-12/3/98	Meeting of the Industry: Science & Technology Working Group of APEC		Manila, Philippines	1 / C/EOC
1998/09						
9	Jun-98	17-21/6/98	Meeting of Follow-up Actions from the Fourth World Conference on Women	All-China Women's Federation	Beijing, China	1 / C/EOC
10	Aug-98	11-12/8/98	Duty Visit to San Francisco EEOC		San Francisco, USA	1 / C/EOC
11	Sep-98	30/8-6/9/98	8th National Plenum of the Federation	All-China Women's Federation	Beijing, China	1 / C/EOC
12	Sep-98	7-9/9/98	3rd Meeting of the Asia-Pacific Forum of National Human Rights Institutions	The Asian Pacific Forum of National Human Rights Institutions	Jakarta, Indonesia	2 / C/EOC & LA
13	Sep-98	1-3/9/98	APEC Women Leaders' Network Meeting	APEC	Kuala Lumpur, Malaysia	1 / C/EOC
14	Oct-98	11-17/10/98	APEC Senior Officials and Ministerial Meetings on Women	APEC	Manila, the Philippines	1 / C/EOC
15	Jan-99	21/1-6/2/99	Annual Meeting of the International Women's Rights Action Watch	International Women's Rights Action Watch	New York, USA	1 / C/EOC
16	Jan-99	21/1-6/2/99	Meeting of Committee on Elimination of All Forms of Discrimination against Women	United Nations	New York, USA	1 / C/EOC
17	Feb-99	21/1-6/2/99	Talk in Fairbank Center for East Asian Studies of Harvard University	Harvard University	Harvard University	1 / C/EOC
1999/2000						
18	Jun-99	19-24/6/99	APEC Women Leader's Network Meeting	APEC	Wellington, New Zealand	1 / C/EOC

Overseas Duty Visits attended by the Chairperson

Item No.	Date	Duration	Purpose	Organiser	Location	No. of attendants/Post
<u>Ms. Anna Wu (tenure: 1.8.1999 - 31.7.2003)</u>						
1999/2000						
1	Sep-99	5-8/9/99	4th Meeting of the Asia-Pacific Forum of National Human Rights Institutions	The Asian Pacific Forum of National Human Rights Institutions	Manila, Philippines	2 / C/EOC & LA
2	Oct-99	12-16/10/99	International Women's Forum Conference		Washington, USA	1 / C/EOC
3	Nov-99	28/10-3/11/99	UN Human Rights Committee Hearing on the implementation of the International Covenant on Civil and Political Rights	United Nations	Geneva, Switzerland	2 / C/EOC & LA
2000/01						
4	Apr-00	10-16/4/00	5th International Workshop, National Institutions for the Promotion and Protection of Human Rights	The Asian Pacific Forum of National Human Rights Institutions	Rabat, Morocco	2 / C/EOC & LA
5	Jun-00	1-10/6/00	23rd Special Session, UN General Assembly "Women 2000 : Gender Equality, Development and Peace for the Twenty-first Century"	United Nations	New York, USA	2 / C/EOC & DG
6	Jun-00	16-22/6/00	APEC Women Leaders' Network	APEC	Darussalam, Brunei	1 / C/EOC
7	Jul-00	7-16/7/00	XIII International AIDS Conference		Durban, South Africa	1 / C/EOC
8	Aug-00	5-10/8/00	5th Annual Meeting of the Asia Pacific Forum of National Human Rights Institutions	The Asian Pacific Forum of National Human Rights Institutions	Rotorua, New Zealand	2 / C/EOC & LA
2001/02						
9	Apr-01	25/4-2/5/01	25th Session of UN Committee on Economic, Social and Cultural Rights	United Nations	Geneva, Switzerland	2 / C/EOC & LA
10	Jan-02	20-24/1/02	Global Summit of Women 2002 (Preparatory Meeting)		Washington, USA	1 / C/EOC
2002/03						
11	May-02	14-16/5/02	International Conference on Public Policy & Management	Tsinghua University	Beijing, China	1 / C/EOC
12	May-02	27-31/5/02	Global Summit of Women 2002 (Global Diversity Colloquium)	Global Summit of Women	Washington, D.C., USA	1 / C/EOC
13	Jul-02	9-14/7/02	Satellite Symposium to the XIV International AIDS Conference & Global Summit of Women 2002		Barcelona, Spain	2 / C/EOC & HPE
14	Aug-02	5-7/8/02	APEC Symposium on Best Practices for Enhancing Women's Entrepreneurship and Start-up Companies	APEC	Taipei, Taiwan	1 / C/EOC
15	Sep-02	8-10/9/02	Conference on Human Rights and Education : "Equalizing Education Opportunities for Human Development"		Kuala Lumpur, Malaysia	1 / C/EOC
16	Nov-02	13-17/11/02	American Association of University Women and ETS International Symposium: "International Perspectives: Global Voices for Gender Equity"		Washington, D.C., USA	1 / C/EOC
17	Mar-03	16-18/3/03	Roundtable Discussion organized by Human Rights Commission of Malaysia: "Rights and Obligations under CEDAW"		Kuala Lumpur, Malaysia	1 / C/EOC
2003/04						
18	Apr-03	23-26/4/03	Colloquium on Global Diversity: "Creating a Level Playing Field for Women"	Global Summit of Women	Washington, D.C., USA	1 / C/EOC
19	Jun-03	26/6-1/7/03	Global Summit of Women 2003	Global Summit of Women	Marrakesh, Morocco	2 / C/EOC & HPE

Item (g): Regarding the Sweden visit:

For (i): The name and nature of Organization A and how it relates to EOC's work:

Organization A is the Swedish Institute (SI), which is a public agency established to increase knowledge of and interest in Sweden worldwide. It seeks to establish cooperation and lasting relations with other countries through active communication and cultural, educational and scientific exchanges. Its operations are carried out in close cooperation with Swedish and foreign partners, as well as with Swedish embassies and consulates around the world. It carries out projects and presentations all over the world to promote Sweden and Swedish values, such as projects related to issues of democracy and human rights. (source: <http://www.si.se>)

In January 2007, the SI jointly organized a large scale seminar with the Swedish Consulate, the Chinese University of Hong Kong and the EOC on "Advancement in Gender Equality – The Sweden and Hong Kong Stories". The seminar has achieved considerable success and was well attended by over 300 participants from different sectors of the society. It was an excellent occasion for all who value gender equality to come together and share experience.

In September 2007, the SI wished to have further exchanges with the EOC and extended an invitation to the Chairperson of the EOC to visit Sweden on a study visit program which covered issues concerning gender equality and disability policy. The program included visits to:

- i) **Handisam**, Swedish Agency for Disability Policy Co-ordination,
- ii) **Riksdagens Ombudsman**, the Parliamentary Ombudsman,
- iii) **Handikappförbundens Smarbetsorgan**, Swedish Disability Federation,
- iv) **Handikappombudsmannen**, Office of the Disability Ombudsman,
- v) **Ombudsmannen mot Diskriminering på Grund av Sexuell Lagging**, the Office of the Ombudsman against Discrimination on grounds of Sexual Orientation,
- vi) **Diskrimineringombudsmannen**, Office of the Ombudsman against Ethnic Discrimination,
- vii) **Samhall**, a state owned company employing people with disabilities, and
- viii) **Jamställdhetsombudsmannen**, Office of the Equal Opportunities Ombudsman.

Learning points and reflections from the Sweden visit were reported to the EOC Board in a EOC Meeting via EOC Paper No. 34/2007 and posted in EOC's website. Details are as attached.

****Note by Clerk, PAC: EOC Paper No. 34/2007 and information posted on the EOC website not attached.***

For (ii): Information about EOC's courier accounts:

The EOC, since its formation, had a courier account set up by a Ms KWAN of the Home Affairs Bureau (HAB) in June 1996 with a courier company. Later in April 2005, two more courier accounts were opened with other companies by staff of the General Office at the request of the Personal Assistant of the Chairperson [PA(C/EOC)] so that more suppliers could be available on the Suppliers' List.

Courier service is to be used on a need basis when circumstances require. Since its formation in 1996, the EOC has engaged courier services twice for delivering documents/files back from overseas, including the delivery from Sweden mentioned in the Audit Report.

Contact telephone numbers and EOC's account numbers opened at the existing 3 courier companies on the Suppliers' List were provided to the Chief Legal Counsel by PA(C/EOC) together with other related information regarding the Sweden visit, such as air tickets, programme of the visit, hotel accommodation arrangements...etc as an information package for use when necessary or upon emergency.

For (iii): The date when EOC was informed of the two additional hospitality items scheduled for 1 and 2 September 2007:

A draft programme was received via email from the Swedish Consulate on Friday, 24 August 2007. The draft programme showed one item - "Excursion by boat" - for 2 September; nothing was shown for 1 September.

The final programme was provided on Wednesday, 29 August 2007, hand delivered by the Swedish Consul at a pre-departure meeting with the chairperson at the EOC offices in the afternoon of that day. In the final programme, an item "Sightseeing in Stockholm together with a licensed guide" was shown for 1 September; and another item "Excursion by boat in the archipelago" with representatives of related organizations was shown for 2 September.

Additional Information Requested by PAC
in its letter dated 20 May 2009

- (h) Currently, reasonable meal expenses of the Chairperson and EOC Members' incurred on duty visits will be reimbursed on an actual expenditure basis taking into account the purpose and nature of the duty visit.

The EOC accepts the Audit's recommendation and guidelines will be revised which will set financial limits for meals taken by the Chairperson and EOC Members during duty visits. To avoid ambiguity and provide clarity and ease of administration, the rate to be applied will follow that of the civil service, which is already applicable to EOC staff at present under EOC's policy currently in force. By way of explanation, it is a fixed rate (which rate varies depending on the overseas country to be visited). Subject to certain prescribed variations, 60% of the fixed rate will be for hotel accommodation while 40% will be for meals, travelling expenses within town and all minor incidental out of pocket expenses.

The EOC Board will be asked to endorse the revised guidelines as soon as possible.

- (i) The measures and action plan that will be adopted to promote good practices to ensure the prudent use of public money within the EOC:-
- (1) A working group comprising EOC Members will be set up to review spending and procurement procedures and make necessary improvements to the procedures to ensure the prudent use of public money with the EOC.
 - (2) Briefings have been held with relevant staff in regard to the proper use of public money particularly on
 - (i) Staff's duty and accountability to ensure the prudent use of public money.
 - (ii) The need to clearly establish the need for a purchase before any purchase is made.

- (iii) Strictly adhering to the procedures stipulated in the Procurement of Stores and Services Manual (PSSM) and ensuring that proper documentation is given, giving fully the particulars, explanation and information required in those instances where the relevant requirement can be waived.
 - (iv) The need to report to the supervisor immediately any inadequacies or practical difficulties in the stores and procurement procedures in the EOC.
- (3) To firmly establish a culture for the prudent use of public money within the EOC, the Director of Government Logistics will be invited to share with EOC staff on important stores and procurement principles and areas in EOC's system that need to be strengthened to achieve this objective.
- (k) In paragraphs 6.4 and 6.21 of the Audit Report, there are two main areas identified by audit for improvement:
- i. compliance with the procedures stipulated in the PSSM and
 - ii. clearly establish the need for an item before expenditure is incurred.

i. **Compliance with the procedures stipulated in EOC's Procurement of Stores and Services Manual (PSSM)**

The non-compliance areas lie in the following:

- a. The required number of quotations were not obtained, and there were insufficient documented justifications for not doing so (28 instances).
- b. The procedures of inviting suppliers to submit quotations as stipulated in the PSSM were not followed (46 instances in 34 purchases^{note}).

note: In 4 instances (involving 4 purchases) identified by audit as "supplier not on Suppliers' List but still invited for quotation", the supplier involved was in business at the time when invited to submit quotations (i.e. in March 08). It was deleted from the Suppliers' List due to closure of business subsequently in April 08.

- c. The required minimum number (i.e. 10) of suppliers in a category of goods/service as stipulated in the PSSM was not maintained or without appropriate approval (59 categories out of a total of 89 categories).

Reasons for non-compliance to (a) above:

- ♦ 15 out of 28 identified instances were minor repairs and alteration work in the EOC office and efforts had been made to obtain more quotes but failed. There was actual difficulty to obtain 3 quotations on each occasion. Another 10 were situations where requirement to obtain 3 quotes could be waived as stipulated in the PSSM. **In future, clear explanations would be given on the Purchase Requisition Forms. Additionally, practicability of the relevant rule on seeking the required number of quotes will be reviewed taking reference to Government's Store and Procurement Regulations. Please refer to the table below for details.**

Reasons for non-compliance to (b) above:

- ♦ The procedure of inviting suppliers by rotation from the Suppliers' List in most cases is not practicable because of low purchase value/quantity, infrequent purchase of the same good/service and sometimes a supplier "not due for invitation" is offering a promotional price. Relevant requirements in the PSSM may not be fully understood by supporting staff performing the supplier sourcing duties. To rectify, a briefing had been held to explain the procedures and requirements to working staff. Based on application experience, the relevant requirement would also be reviewed. Please refer to the table below for details.

Reasons for non-compliance to (c) above:

- ♦ The original grouping of supplier categories in some cases is not realistic. Some of them were too narrowly grouped and some categories that had not been used for years were

still kept in the database. The responsible staff had not accorded a proper priority in the updating. **To rectify, a review on the grouping of supplier categories has been done. Rarely used groups were deleted and approval obtained on categories with sole or limited suppliers. Updating of the Suppliers' List and supplier categories will be done at quarterly intervals in future. Please refer to the table below for details.**

ii. **Clearly establish the need for an item before expenditure is incurred**

Areas that improvements are needed as in:

- ♦ Environmental bags, staplers and extension sockets: need to check existing stock, availability of replacement / alternative and last purchase price before next purchase;
- ♦ Video conferencing system: need to consider the usage rate before purchase;
- ♦ Air purifiers: need to obtain objective and technical advice before purchase.

In future, the process leading to a decision on purchase would include first: consideration of alternative or replacement by existing stock, second: checking of stock level and usage pattern, third: comparison of the reasonableness of the latest quoted price by making reference to the last purchase price/average purchase price, and last but not the least: as the case warrants, to obtain further objective and technical advice to confirm a need. These had been explained to working staff in a briefing session. Please see the table below for further details on the mechanism to ensure implementation.

Ensuring compliance with the procurement procedures and requirements stipulated in the PSSM (para. 6.4)

- 140 -

<ul style="list-style-type: none"> ♦ Review the requirements in the PSSM on the number of quotations to be sought, the procedures of seeking quotations for purchases between the value of \$1000 and \$50,000 and the maintenance of Suppliers' List taking reference to the "Stores and Procurement Regulations" of the Civil Service, aiming at streamlining existing procedures while maintaining fairness, value for money and ensuring prudent use of resources. After the review, a proposal would be put up for consideration of the EOC Board 	<p>Target completion date: September 2009</p>	<p>Changes proposed to existing procedures will only be adopted after the Board's endorsement.</p>
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Audit recommendations

Ensuring that the need for an item is clearly established before expenditure is incurred (para. 6.21)

<u>Specific improvement measures taken / will be taken</u>	<u>Implementation timetable</u>	<u>Remarks</u>
<p>Strengthening the culture of prudent use of resources</p> <ul style="list-style-type: none"> ♦ Division / Unit head to reinforce the importance of the principles of prudent use of public resources, including: 適度、保守、節約、應用才用、應買才買、必須避免浪費等等 in Divisional / Unit meetings 	<p>By end of May 2009</p>	
<p>Systematic improvements to ensure compliance:</p> <ul style="list-style-type: none"> ♦ Provision of sufficient columns and space in the new Purchase Requisition Form for better recording of the reasons for purchase, any alternative available, present stock level, last/average purchase price and estimated consumption, if applicable. All of these information should be properly recorded on the form before purchase is approved. ♦ Establishing a centralized stock control system to provide updated information on current stock level and average cost/last purchase unit cost of similar/same items purchased previously to facilitate consideration before decision is made. 	<p>Revised Form to be used by June 2009</p> <p>Centralized stock control system in place by July 2009</p>	

Equal Opportunities Commission
25 May 2009

Item (j): the evaluation forms received for the seminar held on 24 January 2008:

**Our Ten Years under the DDO-
Moving Forward, Changing Cultures
(24 January 2008)
Analysis of Evaluation Form**

A total of 61 completed forms were received. Degrees of satisfaction (in percentages) are presented as shown in the table.

Evaluation (%)	Time Allocation	Venue	Quality of PowerPoint Presentation	Speakers' Presentation	Facilitators are able to arouse interest and participation from the audience	Lunch Arrangement
Excellent	19.7	59.0	16.4	21.3	26.2	62.3
Good	32.8	34.4	57.4	65.6	57.4	27.9
Satisfactory	31.1	3.3	23.0	9.8	13.1	1.6
Not Satisfactory	14.8	0.0	0.0	0.0	1.6	0.0
No Comment	1.6	3.3	3.3	3.3	1.6	8.2

Item (I): information on the purchases of environmental bags referred to in the Audit Report:

The purchase requests in October 2006 and December 2007 were requested and approved by different staff members.

For improvement, the EOC will centralize all stock control and staff making procurement requests and approving the requests should first consider the availability of existing stocks or alternatives before any purchases.

Item (m): The steps required for the procurement of stores in EOC:

The existing steps and procedures in the Procurement of Stores & Services Manual (PSSM):

Users (A) initiate a purchase request for goods / services and contact GR staff to start sourcing.



A designated GR staff (B) who keeps the Suppliers' List to provide the information of the suppliers to be invited for submission of quotation.



Another GR staff (C) to invite quotations according to the estimated purchase value

[over \$1,000 and below \$50,000, 3 verbal/written quotations are required, in cases of purchases involving design elements or too technical/complex to be communicate by GR staff, originating division/unit concerned shall be responsible for inviting the quotations. For purchase value over \$500,000, staff at officer or above level is required to invite the quotations.]

[Invitation of suppliers to submit quotations should be done by rotation such that selected supplier of a previous transaction shall be invited whereas the unsuccessful suppliers shall not be called. The remaining suppliers to be called shall be invited in sequence from the Suppliers' List.]

For example:

If in the 1st purchase, suppliers called are S1, S2, S3; and S1 is successful, then, in the 2nd purchase, suppliers to be called will be S1, S4 & S5 in sequence.

Staff inviting the quotations to receive verbal quotation *[fax or written quotations shall be received by a designated staff at the Personnel Office]*



A designated officer is responsible to perform random checking of the verbal quotations received.



An officer (D) to evaluate the quotation(s) received.



An officer (E) to recommend the purchase.



A functional head (F) to approve the purchase.

To safeguard EOC and suppliers' mutual interests and building of checks and balances, parties involved in procurement duties, i.e. A, B, C, D, E & F above should be different persons.

Item (n):

The completed Purchase Requisition Form for the purchases of the air purifiers between mid 2005 and Mid 2007, referred to in para. 6.12 of the Audit Report

Air-purifiers purchased

Purchase Reference	Quantity & Price	Purpose
PR No. 2005A054 (Product specifications attached) <u>May 2005</u>	1 x @\$2,350 (at staff area)	<ul style="list-style-type: none"> Originally purchased to remove a bad smell in the conference room of EOC's old office in Wanchai When EOC office moved to its existing location, the air-purifier has been placed at the staff areas
Minute and order confirmation form dated <u>10 March 2006</u> . (Product specification attached.)	2 x @\$9,800 (at machine rooms)	<ul style="list-style-type: none"> Both are ceiling-mount air-purifiers placed at 2 Machine Rooms at the new EOC office for removing the ozone which is the main hazardous pollutant generated from the photocopiers. (In the new office, all photocopiers are placed centrally at the 2 machine rooms) The air-purifiers were recommended and sourced by the Project Consultant of the new EOC office design and installation project before moving in.
PR No. 2006A206 (Product specifications attached) <u>March 2007</u>	14 x @\$2292 13 x @\$1595 (17 at staff area, 10 at public area)	<ul style="list-style-type: none"> For improving air-quality of the EOC office having considered complaints from staff about the air-quality of the new office and that a number of staff had upper respiratory diseases, and on prolonged sick leaves. EOC office management office was called to perform checking on air quality in Nov 2006, office quality standards were downloaded from Indoor Air Quality Centre (http://www.iaq.gov.hk) as reference, details as attached. However, the management office could not provide information on virus and bacteria level. The air-purifiers with a specification that they could inactivate types of bacteria and virus were purchased balancing the cost of engaging further tests and cost of the air-purifiers. Staff sick leave information is also shown below.
PR No. 2007A038 <u>June 2007</u>	2 x @\$1595 (at staff area)	<ul style="list-style-type: none"> Same reason as PR No. 2006A206

Staff sick leave information:	<u>Year</u>	<u>Total sick leave days</u>	<u>change (%)</u>
	1.4.04-31.3.05	418	-
	1.4.05-31.3.06	490.5	+72.5days (+17%)
	1.4.06-31.3.07	487.5	-2.5days (-)
	1.4.07-31.3.08	436	-51.5days (-11%)
	1.4.08-31.3.09	346.5	-89.5days (-21%)

**Note by Clerk, PAC: Completed Purchase Requisition Forms and other supporting documents not attached.*

財 經 事 務 及 庫 務 局
(庫 務 科)
香 港 下 亞 厘 畢 道
中 區 政 府 合 署



FINANCIAL SERVICES AND THE
TREASURY BUREAU
(The Treasury Branch)
Central Government Offices,
Lower Albert Road,
Hong Kong

傳真號碼 Fax No. : 2596 0729
電話號碼 Tel. No. : 2810 2283
本函檔號 Our Ref. : B1/2/7 Pt.23
來函檔號 Your Ref. : CB1/F/1/10

27 May 2009

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

Dear Ms Chu,

**The Director Audit's Report on the
Results of value for money audits (Report No. 52)**

Equal Opportunities Commission ("EOC") (Chapter 3)

I refer to your letter dated 20 May 2009 and provide the required information below.

The costs incurred by a civil servant on duty visits outside Hong Kong, including those for hotel accommodation and meals, are covered by the Government in a manner as set out in CSRR 710, 713 and 714. CSR 713 stipulates that the civil servants making such duty visits will be eligible for a subsistence allowance of a specified rate from the night following arrival in the first place of visit up to and including the night before departure from the last place of visit. This allowance is intended to cover accommodation, meals, laundry charges, casual entertainment, travelling expenses within town and all minor incidental out-of-pocket expenses. In addition, CSR 714 allows for the reimbursement of reasonable expenses incurred directly as a result of the officer's performance of duty outside Hong Kong, e.g. visa, Internet charges, airport tax, etc. A copy of the abovementioned regulations is attached.

On your second question of whether the lunch expense incurred on the day of departure from Hong Kong but before commencement of the official programme is reimbursable, the above quoted regulations have provided the guidelines. The subsistence allowance, which is intended to cover meal and other expenses incurred during duty visits, is only payable from the night following arrival in the place of visit (CSR 713(2)). It is hence the intention that expenses incurred before arrival at the destination would not be covered. Since the abovementioned lunch expense does not fall into the category of expenditure reimbursable under CSR 714(1) as well, it is therefore not reimbursable in the Civil Service.

Please advise if any further information is needed.

Yours sincerely,



(Ms Bernadette Linn)

for Secretary for Financial Services
and the Treasury

c.c. Secretary for Constitutional and Mainland Affairs
Chairperson, Equal Opportunities Commission
Director of Audit

Encl.

CHAPTER IV - SALARIES AND ALLOWANCES

SUBSISTENCE ALLOWANCES AND TRAVELLING EXPENSES

(a) General

- | | | | |
|----------|-----|-----|--|
| Feb 2007 | 710 | (1) | Necessary subsistence and travelling expenses incurred by an officer in connection with his duties either within or outside Hong Kong will be reimbursed by Government, subject to the provisions of CSRs 710-741. |
| Feb 2007 | | (2) | A claim for subsistence allowance must be supported by a certificate from the Head of Department stating that it was necessary for the officer to be away from his place of residence, or from Hong Kong, as the case may be, that the officer was on duty throughout the period in question, that board and lodging were not provided at Government expense and that no allowance has previously been claimed for the period in question (except for expenses on items covered under CSR 713(1) other than those on hotel accommodation, which are separately paid for). For the purpose of this regulation, staff who are conditioned to work 45 hours (net) per week (i.e. excluding one hour for lunch) may count the one hour lunch break as part of a continuous period of duty. |
| | | (3) | Before paying or certifying an officer's claim for travelling expenses the officer paying or certifying the claim must satisfy himself that the expenses arose directly from the officer's duties and that the cheapest appropriate form of transport was used, having regard to the circumstances, including the officer's salary. |
| Dec. 97 | | (4) | Claims for reimbursement (other than those payable from departmental imprests) should be sent to the Director of Accounting Services through the officer's Head of Department. |
| Feb 2007 | | (5) | It is not necessary to produce bills in support of claims within the normal rates of allowance prescribed in CSRs 712 - 713, but see CSR 715. |

711

Amendment No. 1(a)/2007

CHAPTER IV - SALARIES AND ALLOWANCES

Rates outside Hong Kong

- Aug 94 713 (1) An officer who is on duty outside Hong Kong may be granted a subsistence allowance at the rates set out at Annex 4.10. The allowance is intended to cover the cost of the appropriate standard of accommodation and meals, laundry charges, casual entertainment, gratuities, travelling expenses within towns and all minor incidental out-of-pocket expenses. A claim for expenses in excess of the standard rates set out at Annex 4.10 will be considered under CSR 715 but only to the extent which the Secretary for the Civil Service considers reasonable. Other reimbursable items are specified in CSR 714.
- Mar 96
- Feb 2007 (2) The subsistence allowance is payable from the night following arrival in the first place of duty up to and including the night before departure from the last place of duty. The allowance specified under this regulation does not apply to officers on study leave or training outside Hong Kong.

Other reimbursable expenses

- Feb 2007 714 (1) Heads of Department may approve reimbursement of reasonable expenses, other than those covered by CSR 713(1), that are incurred directly as a result of an officer's performance of duty outside Hong Kong.
- (2) Heads of Department may approve reimbursement of reasonable meals and other duty-related out-of-pocket expenses incurred during one-day duty trip outside Hong Kong.
- (3) Heads of Department may authorize an officer not lower than the rank of Assistant Director or equivalent to give approval under CSR 714(1) and (2). Claims from a Head of Department should be forwarded to the relevant Permanent Secretary for approval personally. For cases of Permanent Secretaries themselves or Heads of Department without a policy bureau, Secretary for the Civil Service is the approving authority.
- (4) Officers wishing to claim reimbursement under this Regulation must maintain detailed records of each expenditure item. Their claims for reimbursement must be supported by receipted bills and other relevant documents duly certified by themselves.



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本署檔號 Our Ref.: **UB/BAR/PAC/52 Vol. 3**

來函檔號 Your Ref.: **CB(3)/PAC/R52**

4 June 2009

Clerk, Public Accounts Committee
Legislative Council
Legislative Council Building
8 Jackson Road
Central, Hong Kong

(Attn.: Ms Serena CHU)

Dear Ms CHU,

**The Director of Audit's Report on the
results of value for money audits (Report No. 52)**

Equal Opportunities Commission (Chapter 3)

Thank you for your letter dated 1 June 2009, seeking the Audit Commission (Audit)'s comments on the complaint intake process mentioned in item (a) of the letter dated 27 May 2009 from the Chairperson, Equal Opportunities Commission (EOC). Audit's comments are as follows.

Consultants' recommended practice

Audit would first like to recapitulate the consultants' recommended practice referred to in paragraphs 3.7 and 3.8 of the Audit Report. The consultants recommended that the officer responsible for initial intake decisions should categorise new complaints according to a differential case management approach that recognises:

- (a) complex complaints that will require special treatment and can be accorded exceptional time lines for performance purposes;
- (b) sensitive complaints that may attract public or other external interest and require sensitive handling, and careful and close high-level supervision; and
- (c) complaints that can be fast tracked to early conciliation or discontinuation.

The consultants further recommended that the EOC should introduce a “complaint intake form” to indicate the initial intake instructions as to the appropriate categorisation of the complaint and any special instructions in relation to investigation, conciliation or any other matter in the handling of the complaint. In February 2004, vide EOC paper No. 5/2004, EOC Board Members were informed that the consultants’ recommendations had been accepted and implemented.

EOC’s practice

The EOC’s practice is described in item (a) of the letter dated 27 May 2009 from the Chairperson, EOC. In essence, complaint intake decisions are recorded in different places, including the “weekly roster sheets”, the computerised “Complaint Management System (CMS)” and “file minutes”.

In Audit’s view, the EOC’s practice is not entirely satisfactory because it is inferior to the consultants’ recommended practice which, if implemented, would provide clear documentation of the initial intake decisions tidily in one place (i.e. the “complaint intake form”). In considering this matter, one should also be mindful of the fact that EOC Board Members were clearly informed of the acceptance and implementation of the consultants’ recommended practice back in 2004.


EOC’s proposal

Looking forward, the EOC now proposes that the front page of the CMS be expanded to record the initial and assignment decisions and the rationale behind them, which would then appear as a single document. Audit welcomes this proposal because it is tantamount to creating an electronic “complaint intake form”. Properly implemented, it would serve the consultants’ recommended purpose.

The Public Accounts Committee may wish to urge the EOC to implement the proposal as soon as possible. The Committee may also wish to urge the EOC to incorporate the proposed arrangement into the Internal Operating Procedures Manual and take measures to ensure compliance in future.

A Chinese translation will be forwarded to you shortly.

Yours sincerely,


(YING Kwok-wing, Joseph)
for Director of Audit

c.c. Secretary for Constitutional and Mainland Affairs
Secretary for Financial Services and the Treasury
Chairperson, Equal Opportunities Commission

(Fax No.: 2840 1528)
(Fax No.: 2596 0729)
(Fax No.: 2802 0030)

LegCo Public Accounts Committee
Discussion of the Director of Audit's Report No. 52
Chapter 5 – Hong Kong Arts Development Council
on 12 May 2009

Speaking Note of the Secretary for Home Affairs

Chairman,

First of all, I would like to take this opportunity to extend my appreciation to colleagues of the Audit Commission for conducting an in-depth audit of the operation of the Hong Kong Arts Development Council (HKADC) and the various recommendations put forward in the Report.

The Home Affairs Bureau (HAB) is the policy bureau responsible for promoting culture and the arts in Hong Kong. We rely on the HKADC, whose membership comprises of representatives of the arts community as well as other independent personnel, to plan, promote and support the local culture and arts development, and to advise the Government on areas such as the training of artistic talents. As a statutory body, the HKADC has a major role to play in assisting the Government in the promotion of the development of culture and the arts. It is, therefore, the expectation of the Government, the arts community and the general public that the HKADC will further improve its governance and perform its functions more effectively. This is also why I welcome a thorough audit review on the HKADC by the Audit Commission. It is mentioned specifically in the Report that colleagues of the HKADC and the HAB had been cooperative during the course of the review, for which I am truly pleased.

It is our cultural and arts policy to create an environment that is conducive to free artistic creation and encourages the freedom of creative expression. We know that the HAB cannot single-handedly deal with the formulation of related policies and initiatives, provide funding support for the arts sectors and organize cultural and arts activities. Our principle is to allow the HKADC to enjoy a high degree of autonomy under the law so that it can flexibly handle matters such as funding support following the pace of our cultural and arts development. On 15 April 2008, I signed the Memorandum of Administrative Arrangements with the Chairman of the HKADC to provide a clearer guideline on the powers and responsibilities of the HKADC and to establish a regulatory framework to govern its operation. Nevertheless, the HAB will not interfere with the administration and daily operation of the HKADC.

In the past, the HKADC was also responsible for providing funding support for some of the major arts groups in Hong Kong. In accordance with the Committee on Performing Arts' Recommendation Report issued in 2006, the responsibility for administering funding to the major performing arts groups was transferred to the HAB on 1 April 2007. The HKADC has since focused on the cultivation and development of small-to-medium sized arts groups and local emerging artists. Some of the issues raised in the Report reflect the challenges facing the HKADC as it embarks on this new course. Take part 3 of the Report, which deals with grants and proactive projects, as an example. The Director of Audit noted that some of the overseas cultural exchange projects were completed before grant agreements were signed. The Report also mentioned that of the 50 grant/proactive projects examined by Audit, 47% of the 68 grantees/project organizers involved could not complete their projects and/or submit their reports on time. I think this is part of the development process of our small-to-medium sized arts groups. To improve the management of these arts groups, the HKADC has begun to offer short courses on the management and governance of arts groups in February this year. These courses, covering topics from accounting, contract management, intellectual property to corporate governance, are designed to help the small and medium-sized arts groups upgrade their management and governance skills. As the small and medium-sized arts groups pick up their management and governance standards, it is necessary for the HKADC to maintain a degree of flexibility in exercising its regulatory role over them to allow them room for growth and development.

The Director of Audit has pointed out some issues concerning the governance and management practices at the HKADC. We think that the identification of these issues could not have come at a better time since we have been vigorously developing cultural and arts software and will be increasingly relying on the assistance of the HKADC, whose membership comprises of representatives nominated by various the arts sectors and professionals from other disciplines. We accept the recommendations of the Director of Audit that we should lengthen the period for the registration of members of the nominating bodies, step up our voter registration efforts and consider earmarking a larger publicity budget to widen the publicity channels so that more people from the arts community may take part in the next nomination exercise.

Chairman, my colleagues and I, as well as the Chairman, Chief Executive and the Arts Support Director of the HKADC stand ready to respond to any questions and views from Members. Thank you.

Hong Kong Arts Development Council
Members' attendance rates at Council/Committee meetings
(2005 to 2008)

Type of meetings	Type of members	Last term			Current term
		2005	2006	2007	2008
Council	Directly appointed	73 %	74 %	66 %	69 %
	Nominated	68 %	61 %	55 %	79 %
	Official	81 %	96 %	100 %	100 %
	Overall	72 %	72 %	66 %	76 %
Arts Promotion Committee	Directly appointed	58 %	86 %	67 %	63 %
	Nominated	57 %	20 %	33 %	83 %
	Official	100 %	100 %	83 %	83 %
	Overall	65 %	57 %	53 %	74 %
Arts Support Committee	Directly appointed	36 %	29 %	43 %	53 %
	Nominated	71 %	71 %	55 %	74 %
	Official	100 %	100 %	100 %	100 %
	Overall	68 %	66 %	57 %	71 %



Your Reference: CB(3)/PAC/R52

26 May 2009

Ms Serena CHU
Public Accounts Committee
Legislative Council
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. 52)**

Hong Kong Arts Development Council (Chapter 5)

I refer to your letter dated 19 May 2009 for the captioned matter and enclosed herewith the requested documents for information. An index list is attached for easy reference.

Reference made to your letter item (a), the performance of HKADC is reviewed on a Council term basis, i.e. a 3-year term basis. All relevant papers and minutes of Council meetings relating to the discussion on performance measurements for 2001 to 2007 are enclosed in Document 1.1 to 1.4.

Reference made to your letter item (b), papers and minutes of Council meeting regarding the establishment and approval of Examiner System is enclosed in Document 2.1 to 2.2.

Reference made to your letter item (c), copies of assessment forms used for reporting various art-form projects are enclosed in Document 3 to 11.

Reference made to your letter item (d), the criteria adopted for the assessment of grant/proactive projects will vary depending on the nature of the project.

In general, the criteria include:

- ◆ artistic merit of the project
- ◆ technical standard
- ◆ creativity and originality
- ◆ value of the project to the arts development in Hong Kong

These set of criteria will enable HKADC to have an independent artistic review assessing the outcome and merits of these projects. The report will also be made available to the examiners of the same applicant in his/her new applications. This will facilitate HKADC to further arts development through supporting applicants and projects with good track record and merits.

Reference made to your letter item (e), the grant/ proactive projects approved in 2007/2008, the number and percentage of these grant/ proactive projects for which examiners were assigned to attend and observe the project activities for making assessment are depicted as below. As the completion date of grant/ proactive projects approved in 2007-08 usually may not fall within the same financial year, the expected completion dates falling in 2007/08 would be used for calculation.

Number of project/proactive projects due to complete in 2007/08: 236


Number of assessment arranged: 231

Percentage of projects that have arranged an assessment: 97.9%

Reference made to your letter item (f), the relevant papers and minutes of Council meeting regarding to the discussion on the appointment of HKADC Chairman to the Board of the West Kowloon Cultural District Authority and the transfer of funding and monitoring responsibility over the HKIFF to the CEDB are enclosed in Document 12.1 to 12.4.

Please note that the Council's paper and minutes are our confidential documents (refer to Document 1.1 to 1.4; 2.1 to 2.2 & 12.1 to 12.4). We consider it being included in the Committee's Report as an appendix may not be appropriate.

Yours sincerely



(Mr. Louis YU)

Chief Executive, HKADC

***Note by Clerk, PAC:** *Index list and documents not attached.*



中華人民共和國香港特別行政區政府總部教育局
Education Bureau
Government Secretariat, The Government of the Hong Kong Special Administrative Region
The People's Republic of China

本局檔號 Our Ref. : QED/QEF/CR 10/5

電話 Telephone : 2123 6030

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1 June 2009

Ms Serena Chu
Public Accounts Committee
Legislative Council
Legislative Council Building
8 Jackson Road
Hong Kong

Dear Ms Chu,

**The Director of Audit's Report on the
results of value for money audits (Report No. 52)**

The Quality Education Fund (Chapter 7)

Thank you for your letters of 14 and 20 May 2009 on the above subject. Our responses to questions set out in the two letters are enclosed for consideration by the Public Accounts Committee, please. A Chinese translation of the responses will follow.

Yours sincerely,

(Ms Yolanda ONG)
for Secretary for Education

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

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**Responses to the request for additional information by the
Public Accounts Committee at the public hearing on 7 May 2009**

Part I : Responses to questions set out in the letter dated 14 May 2009

- (a) Subject to the endorsement of the QEF Steering Committee (SC) at the coming meeting in July 2009, the recommendations in paragraph 2.8(a) to (c) of the Audit Report will take effect as from then with details as follows:
- (i) the QEF Investment Committee (IC) and the Dissemination and Promotion Sub-committee (DPS) should conduct meetings three and four times respectively in each 12-month period;
 - (ii) the IC, DPS and the Assessment and Monitoring Sub-committee (AMS) would document and observe the existing practice whereby the quorum should be constituted by at least 50% the membership of the Committee or Sub-Committees concerned; and
 - (iii) the discussion papers for respective Committees and Sub-committees should be available to members five working days before the meetings.
- (b) The number and percentage of projects approved as well as the amount and percentage of funding granted for each of the 11 project themes adopted from April 2008 to February 2009 referred to in Note 3 in paragraph 1.7 of the Audit Report are listed in the table at **Annex I**.
- (c) (i) We recognize the importance of increasing the effectiveness and efficiency of project monitoring, which are mainly achieved by ensuring the grantees' timely submission of the progress reports and financial reports every 6 months, as well as administering the reminder systems for non-compliance cases. We also wish to take the opportunity to address two issues that some schools may encounter difficulties. First, in the actual implementation of the

projects, there are always school-specific circumstances that may result in some unavoidable delay of their original working schedules. Such circumstances may include change of team membership because of staff turnover, need to re-deploy staff from the project team to address changes of priorities of the school during the school year, etc. Second, the projects are normally led by serving teachers who have to deliver their daily teaching services in addition to the administration of the projects. There is room for improving the reporting system so that the workload to teachers in taking forward the QEF projects can be minimized while an effective monitoring of the project can be maintained.

Against the above background, to maintain the balance between the need to tighten the reminder system and the actual circumstances, the QEF will examine *whether it is appropriate to refine the existing arrangements under which all grantees, irrespective of the background (including the levels of grants they receive, scale of projects and their track record, etc), should follow the same 6-month reporting requirement.* We will examine the feasibility for requiring some types of grantees that are of lower-risk or meet certain specified conditions to submit progress reports and financial reports every 9 or 12 months instead. For those grantees in which 6-month requirement should apply, we will enforce the prevailing monitoring mechanism. Besides, as an overall strategy, we will enhance the monitoring mechanism by spelling out clearly the consequences of late submission in our correspondence with grantees from the early stage.

- (ii) The QEF will consider the feasibility of holding up 5 to 10% of the non-staff-cost subsidy to be released after the grantee has submitted project-end final report and final financial report.

The QEF Secretariat will consult the QEFSC on the proposed arrangements in item (i) and (ii) above.

- (d) The Operation Manual was last reviewed in April 2008. Apart from the review, the Manual is also updated from time to time on a need basis, the last time being in July 2008. The next annual review has been

scheduled for July 2009.

- (e) Since the establishment of the QEF in 1998, 99 projects have been granted to corporate organizations registered under the Company Ordinance, accounting for 1.3% of the total number of QEF projects approved over the years. The 99 projects are from 54 organizations, 30 of which are of charitable organization status, including three non-governmental organizations.

- (f) (i) and (ii)

To take forward the QEF's policy intent to disseminate extensively QEF products for sharing and promotion among stakeholders such as teachers and parents, as well as the general public, QEF is the exclusive owner of the ownership and copyright of all deliverables so created as a result of the projects funded by the QEF. That arrangement aims to facilitate editing, repackaging or commercialization of QEF products for wider dissemination purposes, avoiding any users from infringing the copyright with possible legal liability.

Since the QEF Secretariat's implementation of the copyright policy, there has been no request from project applicants and grantees to retain the copyright of the project deliverables.

Notwithstanding the above copyright arrangement, QEF Secretariat has been implementing the following measures to facilitate the adaptation, distribution and further development or research relating to the QEF deliverables by different genuine users. These measures include: (1) allowing grantees to use any project materials beyond the project period as long as the use is in step with the project objectives stated in the project agreement; and (2) granting relevant parties the right to use the copyright of QEF project deliverables for other purposes subject to the individual merits of respective proposals. In the past, QEF had granted licenses to an organization for the redevelopment of the teaching resources derived from two QEF projects with royalty payable to QEF from the sale of the two teaching packages thus redeveloped. Besides, the QEF had also granted an EDB-commissioned contractor the right to use the QEF deliverables for producing free Chinese

Language bridging course materials for non-Chinese speaking children.

We will continue to implement the above measures to facilitate users in using the copyright of QEF deliverables as the case merits.

- (g) (i) The project proposal was supported in view of its innovative ideas relating to the development of e-resources, overall benefits to the education sector and its potential to sustain by commercial means the use of state-of-the-art technology in that new area of development. Extract of the QEFSC meeting minutes concerning this project is at **Annex II**.

It is noteworthy that the QEFSC has endorsed the Objectives and Plans of the QEF for 2006-8 in which partnership with the private sector is one of the objectives (i.e. Objective 3 - “To encourage collaboration amongst schools, Government, non-government organizations and the private sector in the furtherance of quality education”). Under this objective, it was agreed that priority would be given to applications that encouraged or resulted in closer and more varied collaboration.

- (ii) The proposed service fees charging plan from the grantee would be vetted by the QEF Secretariat and circulated to the QEFSC for endorsement. Any proposal should be considered with due regard to the contextual background of individual cases against the requirements of affordability and sustainability of the service.
- (iii) The main purpose for commercialization is for wider dissemination of QEF deliverables, not for profit making. All business proposals for commercialization of QEF project deliverables will be deliberated by the DPS considering the reasonable pricing of the items to be commercialized and the benefits of the commercial activities will bring for the wider dissemination of QEF project deliverables. Moreover, the QEF Secretariat in general uses the formulae as set out in Note 13 of the Audit Report for determining the retail prices of products sold via commercial outlets. Taking into account of the latest development of commercialization, the DPS will consider taking further measures to ensure that the

pricing strategy of QEF products will facilitate the availability of products to schools at a reasonable and affordable price. Proposed measures will be presented for discussion in the DPS meeting scheduled for October this year.

- (h) A copy of the membership list of the QEFSC is attached at **Annex III**.

Part II : Responses to questions set out in the letter dated 20 May 2009

- (a) “Use of New Technology for School Administration Work” is one of the annual project themes of QEF project applications and it is not a mandatory requirement for all schools to apply for projects under this theme. It is noteworthy that QEF projects are school-based initiatives that meet the development needs and interest of schools concerned. It is not expected that all schools will adopt such new technology in view of the different needs of individual schools.

Since the introduction of this project theme in March 2007, the QEF Secretariat has organized various activities to promote the theme, including annual briefing sessions for schools, seminars for school sponsors and education bodies, etc. Moreover, proposals of successful applications are posted on the QEF Cyber Resource Centre for reference of other schools.

The number of applications for this project theme is amongst the highest of all the project themes. The number of applications progresses steadily and the latest number of applications under this project theme has increased to about 500 in May 2009. The QEF Secretariat will continue to encourage schools to consider applying for funding under this project theme through further briefings and dissemination activities.

- (b) (i) The recurrent costs vary depending on the choice of system installed and vendors. The average yearly recurrent cost is about \$8,000 per school.
- (ii) The application procedure for applying for funding under this

project theme is generally the same as that for other project types. In view of the nature of this project theme, the information details required from applicant schools have been simplified to facilitate applications. Relevant application form and guideline are attached at **Annex IV**.

- (iii) Informal exchanges with schools revealed that some school heads have generally found the existing administrative and management computer system (i.e. Web-based School Administration and Management System) developed by EDB adequate in serving the needs of their schools and thus a new system with additional functionalities is not required. Some have expressed concerns over various administrative issues such as loss of the smart cards or students' misuse of the Octopus cards. We will continue to address concerns of schools during our briefings and dissemination seminars.

(c) (i) and (ii)

The general policy of granting QEF projects is that all deliverables generated from QEF projects shall remain the exclusive property of the QEF and be made available to beneficiaries concerned free of charge. However, if the grantee or a third party wishes to invest on the redevelopment of QEF deliverables for commercial distribution subsequent to the project period, the existing policy is that QEF could grant the right to use the copyright of the QEF deliverables and charge royalty amounting to 10% of the proceeds of the commercial deliverables.

For Case 6 in the Audit Report, the AMS and the QEFSC deliberated the case and developed the agreement on QEF project deliverables with reference to the general policy of granting QEF projects and policy on commercialization of QEF deliverables. It has been stipulated in the agreed project proposal attached to the agreement that the organization should, among others, continue to provide users free-of-charge access to the 50 e-books; levy an annual service fee that is to be formulated on a balanced

income and expenditure basis for using the additional functionalities of the e-platform; pay to QEF a royalty amounting to 10% of the gross proceeds in respect of schools' use of the new e-books to be developed and the e-platform functions. We will continue to monitor the service fee to be charged by the grantee ensuring the agreed basis of charging is followed. A copy of the agreement of the case is attached at **Annex V**.

***Note by Clerk, PAC:** *Annexes II and V not attached.*

Quality Education Fund Statistics on Projects Approved and Funding Granted for each of the 11 Project Themes April 2008 to February 2009						
Project Theme	No. of Applications (a)	No. of Approved Projects (b)	Percentage of Approved Projects (%) (b/a)	Grants Sought (HK\$M) (c)	Approved Grants (HK\$M) (d)	Percentage of Approved Grants (%) (d/c)
1. Effective Learning	149	95	64%	101.9	37.9	37%
2. Support for the New Senior Secondary Education Reform	45	20	44%	95.6	20.6	22%
3. Moral and Civic Education	26	9	35%	26.3	3.2	12%
4. National Education	33	15	45%	30.7	12.0	39%
5. Creative Arts Education	34	13	38%	11.3	2.7	24%
6. Healthy Campus	16	7	44%	10.2	5.5	54%
7. Supporting Youth Development	19	6	32%	33.5	9.6	29%
8. Care for Pre-primary Children	14	5	36%	10.1	3.1	31%
9. Wellness Programmes for Teachers	7	2	29%	9.3	1.4	15%
10. Review of School Administrative Work	3	1	33%	0.9	0.5	56%
11. Use of New Technology for School Administrative Work	128	126	98%	14.3	13.3	93%
12. Others	26	13	50%	10.5	3.0	29%
Total	500	312	62%	354.5	112.9	32%

**Quality Education Fund Steering Committee
Membership List**

	Category	Since	Latest Term	
			From	To
CHAIRMAN				
Mr PANG Yiu-kai, SBS, JP Chief Executive, Hongkong Land Ltd	EC Ex-officio Member	16.1.2006 (as Chairman) 16.1.2003 (as Member)	1.7.2007	30.6.2009
MEMBERS				
Mr CHAN Kwok-wai, Patrick Executive Director and Chief Financial Officer, Hang Seng Bank Ltd	Business Sector	16.1.2006	16.1.2008	15.1.2010
Prof IP Ho-shing, Horace Chair Professor, Department of Computer Science, City University of Hong Kong	Tertiary Sector	1.7.2005	16.1.2009	15.1.2011
Mr IP Sing-piu, Antony Headmaster, Shak Chung Shan Memorial Catholic Primary School	Schools Sector	16.1.2007	16.1.2009	15.1.2011
Dr LAM Chi-kit, Lawrence, MH Dental Surgeon	Professionals Sector	16.1.2009	16.1.2009	15.1.2011
Ms LEUNG Chi-kin, Gloria Service Head, Pre-school Education and Child Care Service Caritas – Hong Kong	Pre-primary Sector	16.1.2009	16.1.2009	15.1.2011
Miss Jane Curzon LO Barrister	Professionals Sector	16.1.2006	16.1.2008	15.1.2010

	Category	Since	Latest Term	
			From	To
Mrs MANSUKHANI AU Hay-lun, Rita Chairman, Hong Kong Special Schools Council	EC Member	16.1.2006	1.1.2008	15.1.2010
Mr NG Sui-kou, MH Principal, Ho Fung College (Sponsored by Sik Sik Yuen)	Schools Sector	16.1.2009	16.1.2009	15.1.2011
Mr PAK Fu-hung, Frank Managing Director, Home of Swallows Ltd	Business Sector	16.1.2009	16.1.2009	15.1.2011
Ms POON Suk-han, Halina, MH Principal, Christian & Missionary Alliance Sun Kei Secondary School	Schools Sector	16.1.2009	16.1.2009	15.1.2011
Mr WONG Chun-nam, Duffy Partner (Solicitor), Ho, Wong & Wong, Solicitors & Notaries	Professionals Sector	16.1.2006	16.1.2008	15.1.2010

EX-OFFICIO MEMBER

Deputy Secretary for Education (4)

SECRETARY

Principal Education Officer (School-based
Support Services)

Quality Education Fund Electronic Application Form

Project Number
(To be assigned by the EPMS)

Please read the 'Guide to Applicants' and the 'Explanatory Notes for completing the Quality Education Fund Application Form' (Explanatory Notes) at the Quality Education Fund (QEF) web-site (<http://qef.org.hk>) before completing this form. One application form should be completed for each project theme and submitted through the Electronic Project Management System (EPMS).

Part A Project Particulars

1. (a) Project Theme *(Please select one.)*

Learning and Teaching

- ☐ Effective Learning and Teaching of Languages
- ☐ Assessment for Learning
- ☐ National Education
- ☐ Educational Exchange

Support for Students and School Ethos

- ☐ Healthy Lifestyle
- ☐ Wellness Programmes for Teachers

Management and Organization

- ☐ Effective School Management
- ☐ Review of School Administrative Work
- ☐ Use of New Technology for School Administrative Work

Others

- ☐ Other Theme (please specify.) _____

(b) Project Sub-category *(Please select an appropriate one.)*

1	2	3
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2. Title of Project

English	
Chinese	

3. Grant Sought: \$ _____ *(Please round up to the nearest hundred dollar.)*

4. Project Period:

From 1st day of _____ (month/year) to last day of _____ (month/year)
Commencement date End date

5. Beneficiary Sector: ☐ Pre-primary ☐ Primary ☐ Secondary ☐ Special Education

6. Applicant Sector: ☐ Pre-primary ☐ Primary ☐ Secondary ☐ Special ☐ Tertiary Education
☐ Others

7. Particulars of Applicant

(a) Name of School / Organization / Individual

English: _____

Chinese: _____

For school applicant, please provide:

School Number:

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Session: AM/PM/Whole Day

(b) Name of Head of School / Organization

Title: Mr/Ms/Prof/Dr/ _____

Name in English: (Surname) _____ (Given Name) _____

Name in Chinese: (Surname) _____ (Given Name) _____

(c) Correspondence Address

English: _____

Chinese: _____

(d) Tel. No. (Office Hours) _____ **(Outside Office Hours)** _____

Fax No: _____ **Email Address:** _____

8. Particulars of Project Leader

Title: Mr/Ms/Prof/Dr/ _____

Name in English: (Surname) _____ (Given Name) _____

Name in Chinese: (Surname) _____ (Given Name) _____

Post in School / Organization: _____

Tel. No. (Office Hours) _____ (Outside Office Hours) _____

Fax No: _____ Email Address: _____

9. Information of previously funded QEF projects

Please list the three latest QEF approved projects undertaken by the applicant:

Project No.	(1)	(2)	(3)
-------------	-----	-----	-----

Please refer to the EDB website: <http://www.edb.gov.hk/index.aspx?nodeid=510&langno=1>

Part B Project Summary

Please use the format at Annex in the Explanatory Notes to provide in **one A4 size page at font size no smaller than 11 a summary of the project. The file submitted should be saved in .pdf format. Applications will not be accepted if the project summaries are found to have exceeded the page limit.**

(For details, please refer to paragraph 3 of the Explanatory Notes.)

Part C Project Details

Please provide details of the proposed project in no more than 15 A4 size pages with single line spacing at font size no smaller than 11 and submit the file saved in .pdf format through the EPMS. Applications will not be accepted if the project details are found to have exceeded the page limit.

The project details should cover the goals and objectives, conceptual framework, needs assessment, applicant's capability, targets and expected number of beneficiaries, extent of teachers' and principals' involvement in the project, implementation plan with time-line, budget with detailed breakdown, evaluation parameters and method, expected deliverables and outcomes, dissemination / promotion activities and sustainability of the outcomes of the project.

(For details, please refer to paragraphs 4 to 32 of the Explanatory Notes.)

Part D Details of Collaborating / Participating Organizations

Please provide a list of schools and organizations which has / have agreed to collaborate / participate in the proposed project. **The nominated schools and organizations should be requested to confirm their collaboration / participation through the EPMS within 14 days from the date of submission of the application.** Should no confirmation be made, the schools and organizations concerned will not be counted as valid collaborators / participants.

Part E Declaration

- (a) I confirm that the applicant organization is not undertaking any QEF projects of the same theme as at the commencement date of the project under application.
- (b) I confirm that the proposed project does not duplicate those I have been conducting / will conduct using other government funding.
- (c) If the project is funded or subsidized by the QEF, I pledge to participate actively in all the promotion, dissemination and publicity activities in respect of the project.
- (d) I understand that all products / deliverables, including the records, database and materials developed in the proposed project shall remain the exclusive property of the QEF.
- (e) I confirm that in implementing the proposed project, I will not infringe any copyright or other intellectual property rights of any party.
- (f) I certify that all the information given in this application is true and accurate. I understand that if I wilfully give any false information or withhold any material information, the application

will become void. Any grant approved will be withheld and any payment made must be refunded to the QEF.

Additional Declaration for School Applicant:

- (g) I understand that upon approval of the project, I shall be required to produce documentary proof of endorsement by the School Management Committee / Incorporated Management Committee that the project aligns with the needs and development of the school and the project is supported by teachers.

Note:

All applications for the QEF should be submitted via the EPMS. If the applicants are schools or organizations, these applications, once submitted, are regarded as already endorsed by the head or supervisor of the school / the head of the organization on behalf of the school / organization.

Quality Education Fund Secretariat
April 2009

*Supplementary Guide on
“Use of New Technology for School Administrative Work”
Matching Grant Applications*

Scope of Projects

1. All public sector secondary and primary schools (i.e. government, aided, caput and DSS schools) are eligible to apply for funding under this category. These projects should aim to utilize new technology to streamline administrative work in schools and to reduce workload of teachers. Examples of new technologies concerned include but are not limited to smart card system which will help in handling students' attendance, fee collection, library services, door access, etc. Installation of a new system or improvement of the existing system will both be considered. This funding will only be granted once.

Funding Arrangements

2. The Quality Education Fund (QEF) will support such projects on a **one to one matching fund** basis for the installation of a new system or upgrading of the existing system to a maximum of 50% of the cost.
3. For proposed systems utilizing readily available solutions in the market such as smart card or similar technology with the functions of handling students' attendance, fee collection, library services and/or door access, **the QEF will commit a ceiling of \$115,000 with two components.** The QEF will sponsor 50% of the set-up cost, i.e. \$75,000. A matching fund for the remaining 50% should be borne by the applicant school. Applicant schools will be responsible for paying the remaining sum and the recurrent costs, if any with their school funds, such as the Operating Expense Block Grant (OEBG), and Composite Furniture and Equipment Grant (CFEG) for aided schools or their own private funds. **The QEF will not bear any recurrent costs.**
4. Moreover, it is recognized that additional manpower will be required for the preparation work for installation of the system, such as drafting of specifications and liaison work within school and with the contractor. The QEF will also contribute to a ceiling of \$40,000 which is 100% subsidy for the additional manpower required. Matching fund from the applicant schools for the staff cost is NOT required.
5. For proposed systems to utilize technologies with other functionalities other than the abovementioned ones, the \$115,000 ceiling grant will NOT apply. However, the **one to one matching fund** for the set-up cost will still apply.

Project Application and Proposal

6. Applicant schools are required to follow the application procedures as other

categories of projects and provide information on project summary and project details under Parts B and C respectively in the application form. **Each proposal is restricted to 15 pages plus a one-page project summary with single-line spacing and font size no smaller than 11. Applications will not be accepted if the proposals are found to have exceeded the allowable page limits in various sections.** In view of the special nature of the projects, for Part C – Project Details, applicants are simply required to provide the following details:

- Background of the school
- Needs assessment
- Expected functionalities of the new technology system
- Implementation plan, e.g. installation time-line, layout plan of card readers and access points in the case of a smart card system, etc.
- Budget plan (please refer to the template below)
- Evaluation plan
- Maintenance plan

Budget Plan

(examples related to a smart card system are included in the table)

Facilities / Service Cost			
	Unit Price	Qty	Amount (\$)
(a) e.g. attendance reader			
(b) e.g. payment reader			
(c) e.g. server			
(d) e.g. computer			
(e) e.g. installation fee			
Sub-Total			

Staff Cost (Post: _____)	
\$_____ per month x _____ month(s) + \$_____ MPF (if any)	
Sub-Total	

Contribution Breakdown			
	<i>School Contribution</i>		<i>QEF Grant Sought</i>
	<i>Amount</i>	<i>Source</i>	
Facilities / Service Cost			<i>Note 1</i>
Staff Cost			<i>Note 2</i>
Total grant requested from the QEF			<i>Note 3</i>

- Notes :
- 1) 50% of the total facilities/service cost or \$75,000, whichever the less
 - 2) \$40,000 maximum
 - 3) \$115,000 maximum

ACRONYMS AND ABBREVIATIONS

AMS	Assessment and Monitoring Sub-committee
AOB	Any Other Business
Audit	Audit Commission
CEDB	Commerce and Economic Development Bureau
CEO	Chief Executive Officer
CMAB	Constitutional and Mainland Affairs Bureau
CMS	Complaint Management System
COR	Controlling Officer's Report
CSR	Civil Service Regulations
CV	Curriculum Vitae
DDO	Disability Discrimination Ordinance
DPS	Dissemination and Promotion Sub-committee
EOC	Equal Opportunities Commission
FC	Finance Committee
HAB	Home Affairs Bureau
HKADC	Hong Kong Arts Development Council
HKIFFS	Hong Kong International Film Festival Society
HKSAR	Hong Kong Special Administrative Region
IC	Investment Committee
ICAC	Independent Commission Against Corruption
IOPM	Internal Operating Procedures Manual
IT	Information Technology
LegCo	Legislative Council
MAA	Memorandum of Administrative Arrangements
PSSM	Procurement of Stores and Services Manual
QEF	Quality Education Fund
SC	Steering Committee

ACRONYMS AND ABBREVIATIONS

SDO	Sex Discrimination Ordinance
SI	Swedish Institute
WKCD	West Kowloon Cultural District