



廉政公署

INDEPENDENT COMMISSION AGAINST CORRUPTION

廉政專員

Commissioner, ICAC

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~~CONFIDENTIAL~~

By Hand

22 April 2014

Ms Anita SIT
Clerk to Select Committee
Legislative Council
Legislation Council Complex
1 Legislative Council Road
Central
Hong Kong

Dear Ms Sit,

**Select Committee to Inquire into Matters Relating to
Mr Timothy TONG's Duty Visits, Entertainment, and
Bestowing and Receipt of Gifts during his Tenure as
Commissioner of the Independent Commission Against Corruption**

Thank you for your letter dated 9 April 2014.

As requested, please find attached our reply to the questions in English and Chinese version for your necessary action.

Yours sincerely,

(Simon Y L PEH)

Commissioner

Independent Commission Against Corruption



為下一代 共建廉潔將來

A clean future for our next generation

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附錄 I

第 1 項： 請提供《廉署常規》與外訪有關並適用於湯顯明先生任職廉政專員期間的部分，並具體說明自湯顯明先生離開廉署後曾作出的修改。

- 與外訪有關並適用於湯顯明先生任職廉政專員期間的《廉署常規》載於第一部分第二十五章第六、七節及第二十六章第四節（見英文版附件）。自湯顯明先生離開廉署後，廉署對有關的《廉署常規》曾作出如下的修改：

第二十五章第六節

- 列明批核人員只會在職員有絕對需要執行職務，或有關職務對履行公署使命及／或職能大有裨益的情況下，才可批准該職員離港外訪。
- 若無法避免必須進行外訪，同行人數應減至最低；行程亦應盡量簡短，並只包括達致公務目的的相關活動／環節。
- 有關人員應避免在公務結束後參加任何由主辦機構安排的旅遊活動，以免因此延長外訪時間或招致額外公帑。

第二十六章第四節

- 清晰列出在提升客位級別時所需的批核人員，包括專員的批核人員為特首。
- 公幹人員基於個人理由申請更改旅程安排一般不會被接納。如在特殊情況下有酌情的理由，才可申請並由專員親自批核，而專員的申請則必須由特首批核。
- 公幹人員需遞交經部門首長批核的表格給物料供應組及財務組作購買機票及申請津貼。如沒有指定的批核人員批准，公幹人員不得指明航空公司及航班。
- 物料供應組未收到有關批核前不得確認出機票。

Appendix I

Item 1 : Please provide the relevant parts of the Commission Standing Orders (“CSO”) relating to duty visits applicable during Mr Timothy TONG’s tenure as Commissioner of ICAC and specify the changes that have been made since Mr Timothy TONG left ICAC.

- CSO Part I Chapter 25-06, 25-07 and 26-4 relate to duty visits and the relevant parts of the CSO applicable during Mr Timothy TONG’s tenure as Commissioner of ICAC are attached (English version only). Major changes that have been made since Mr TONG’s departure from ICAC include the following:-

Chapter 25-06

- Visits outside Hong Kong should only be approved when such visits are absolutely necessary in the discharge of the officer’s duties or prominently conducive to the missions and/or function of the Commission.
- The number of officers joining the trip should be kept to the minimum and the duration of the trip should be as short as possible covering only the part of the programmes/sessions pertaining to the official purposes of the visit.
- Officers should avoid participating in any tour programmes arranged by the hosting organisation, which would prolong the duty visit or incur additional public funds, upon completion of the official business.

Chapter 26-04

- The approving authorities for upgrading of duty visits have been clearly stated, including the approving authority for upgrading the Commissioner’s duty passages rest with the Chief Executive (CE).
- Applications to modify an officer's passage for private reasons are normally not allowed unless under exceptional circumstances justifying compassionate consideration. For the Commissioner, prior approval must be obtained from CE and for other officers, the approving authority is the Commissioner.
- Officers should submit to the Supplies Office and Finance Office their request for the booking of passage by using a standard form via their head of department. Officers should not specify the airline and/or flight number, unless prior approval has been given by the approving authority.
- The Supplies Office will only confirm the reservation of air ticket after proper approval for the overseas trip is received.

Commission Standing Orders (Part I)

Chapter : 25

Title : Finance

Internal Reference : 25-06

Section : 06

**Heading : Advance of Subsistence
Allowance for Overseas Duty
Visits / Training**

Version Date : 03/01/2011

Remarks :

1. Rates of subsistence allowance are stipulated in “Annex 4.10 – Rates of Subsistence Allowance Outside Hong Kong” of the Civil Service Regulations.
2. Advance payment of subsistence allowance under Civil Service Regulation 713 for officers on overseas duty is normally processed by the Treasury and requires a lead time of around three weeks. If sufficient lead time is available, an officer who wishes to apply for it should submit his request in writing to the Finance Office.
3. Upon receipt of the request, the Finance Office will make arrangement to have the allowance credited to the officer's payroll bank account prior to his departure from Hong Kong.
4. When an officer is selected to attend an overseas training course, he can apply to the Development Section of the Training and Development Group for an advance payment of study grant, if applicable. The Development Section will advise the Finance Office of the appropriate rate of study grant to which the officer is entitled. Payment of study grant is processed by the Treasury and requires a lead time of around three weeks.
5. Officers have the option to claim reimbursement of subsistence allowance / study grant after the trip instead of applying for an advance payment.
6. Officers being granted an advance payment of subsistence allowance for overseas duty visit or advance payment of study grant for overseas training should submit the Form ICAC 612 or 'Statement of Account' to the Finance Office (for overseas duty visit) and submit the relevant claim form to the Development Section of the Training and Development Group (for overseas training) as appropriate, in accordance with CSO (I) 25-07, irrespective of whether there are additional claims for expenses incurred.

Commission Standing Orders (Part I)

Chapter : 25

Title : Finance

Internal Reference : 25-07

Section : 07

**Heading : Reporting of Statement of
Account after Overseas Duty
Visits / Training**

Version Date : 03/01/2011

1. When an officer returns from overseas duty visit, he should complete, within 30 days, the Form ICAC 612 for Operations Department officer or the 'Statement of Account' for non-Operations Department officer. The relevant original receipts duly certified by the responsible officer and documentary proof of payment (as applicable) should be provided to account for the subsistence allowance, advance payment of subsistence allowance and claim for reimbursement of expenses not covered by the allowance. He must report on the form the accommodation arrangement during overseas duty and provide documentary proof of payment if he stayed in a self-arranged rented accommodation. Officers should refer to Civil Service Regulations 713—716 for detailed information on subsistence allowance and approving authorities as stipulated on the Form ICAC 612 or the 'Statement of Account' as appropriate.

2. When an officer returns from overseas training course, he should forward, within 30 days, all claims of reimbursement to the Development Section of the Training and Development Group. The Development Section will examine and endorse the claims as appropriate and pass them to the Finance Office for reimbursement of expenses not covered by the study grant.

Commission Standing Orders (Part I)

Chapter : 26

Title : Supplies

Internal Reference : 26-04

Section : 04

Heading : Booking of Duty and Training
Passage

Version Date : 26/06/2009

1. Officers are provided with air passage when required by the Commission to travel overseas for official duties or training. Officers are entitled to the following classes of duty passage –

<u>Officer</u>	<u>Class of Duty Passage</u>
C	Business Class
H/Ops	Business Class
All other officers	Economy Class

2. Upgrading from Economy Class to Business Class may be allowed under the following circumstances -

- (a) where the flying time exceeds nine hours (e.g. referring to the normal flying time, including transit time, according to the original route approved for the duty visit or on direct flight between Hong Kong and Sydney);
- (b) where the officer has to travel again within seven calendar days from his last return from duty or where the officer is subject to a tight flight schedule of no less than three flights within five days;
- (c) where the officer is required on duty to travel in the same class with another person or group of persons taking a higher class of passage than the officer's normal entitlement; or

- (d) where the appropriate class of travel is not available on the route concerned and choice of other flights is not appropriate for the purpose of the visit.

3. No upgrading will be allowed —

- (a) for the outward journey to the duty place, if an officer takes leave outside Hong Kong before duty is performed; or
- (b) for the return journey to Hong Kong, if after performance of duty or upon arrival in Hong Kong, an officer takes leave or is granted authorized absence under CSR 1111(4).

4. In applying for upgrading of passage, the officer concerned must declare that he will not take leave prior to commencement of duty overseas or after completion of such duty. Deliberate act to defer application for leave until approval of upgrading of passage is obtained may render the officer liable to disciplinary action.

5. Notwithstanding the provisions above, the upgrading of air passage is subject to availability of funds and the prevailing Commission policy.

6. The authority to approve upgrading of duty passages referred to in paragraph 2, subject to the considerations in paragraphs 3 to 5, above rests with C, H/Ops, D/PS, D/GS, DCR and DCP.

7. Prior approval must be obtained from the approving authority below if an officer wishes to modify his passage for private reasons —

	<u>Approving</u>
--	------------------

<u>Category of Officers</u>	<u>Authority</u>
(a) H/Ops, D/PS, D/GS, DCP, DCR, AD/A	C
(b) All other officers in -	
OPS	H/Ops
CPD	DCP
CRD	DCR
Administration Branch	AD/A

The officer concerned must pay for all additional costs involved as a result of such modification.

8. Officers should submit to the Supplies Office their request for the booking of passage **together with** the approval in writing for the overseas trip by following the procedures as stated below –

(a) For officers working in the Operations Department

The officer should forward a duly completed and signed Form ICAC 556 or ICAC 563 as appropriate and fax it to the Supplies Offices and Finance Office in parallel for follow-up.

(b) For officers working in non-Operations departments

The officer should submit his request to the Supplies Office and Finance Office in parallel for follow-up.

9. The Supplies Office will inform the officer once the reservation of air ticket is confirmed. The appointed travel agent will normally deliver the air ticket to the officer direct, who must obtain an invoice from the agent on receipt of the air ticket.

10. The officer should ask his supervisor not below the rank of Commission Against Corruption Officer (Upper) to certify the invoice, confirming that the air ticket has been received, and forward the signed invoice to the Supplies Office for payment. Where the passage is for training purpose, the invoice should be sent to Chief Investigator / Development who will similarly certify and pass it to the Supplies Office.

11. If a passage is subsequently cancelled, the officer must immediately return the air ticket together with an explanation via his supervisor not below the rank of Commission Against Corruption Officer (Upper) to the Supplies Officer and Executive Officer / Finance. The Supplies Office will deal with the cancellation of the ticket and the Finance Office will handle the related accounting issues. Preferably, the officer should notify both offices in advance either by email or telephone.

12. Officers should not obtain quotations direct from travel agents and then ask the Supplies Office to place order with their selected agents. Instead, the Supplies Office will obtain quotations by rotation from the list of service providers. Whilst it is acceptable for an officer to propose a travel agent to the Supplies Office for inclusion in the shortlist of providers invited to quote for a particular trip, the officer must not enter into any commitment with any company. The responsibility of selecting a travel agent rests with the Supplies Office.

附錄I

第 2 項： 請提供《廉署常規》最新版與收受禮物有關的部分，並具體說明自湯顯明先生離開廉署後曾作出的修改。

➤ 《廉署常規》最新版與收受禮物有關的部分，載於第一部分第九章第三節及第二十五章第四節（見英文版附件）。自湯顯明先生離開廉署後，廉署就有關的《廉署常規》所作出的修改如下：

- 作為一般準則，職員不應主動向有公事往來的賓客餽贈禮品／紀念品，亦須盡量避免與他們交換禮品／紀念品。
- 職員在適當情況下應事先向相關機構解釋有關廉署厲行節約的原則及其安排。
- 若無法避免需要交換禮品／紀念品，職員應只向有關機構送贈一份印有廉署標誌的紀念品。
- 禁止向個別人士餽贈禮品／紀念品。
- 若有需要向任何機構餽贈非標準紀念品，必須得到部門首長批准，並知會行政總部有關安排。
- 有關職員向財務組申請付款安排時，應盡量提交相關禮品／紀念品的數量、價值及禮品／紀念品所贈予的人員／機構等資料。
- 行政總部會定期向貪污問題諮詢委員會滙報未能依從上述一般做法所餽贈的禮品／紀念品。

Appendix I

Item 2: Please provide the relevant parts of the latest CSO relating to the receipt of gifts and specify the amendments that have been made since Mr Timothy TONG left ICAC.

- CSO Part I Chapter 9-03 and Chapter 25-04 relate to the receipt of gifts are attached (English version only) and the amendments that have been made since Mr Timothy TONG's departure from the ICAC include the following:-
- As a general rule, officers should not initiate the offer of gifts/souvenirs to official guests and should avoid as far as possible exchanging gifts/souvenirs to official guests.
 - As appropriate, the organisation concerned should be notified in advance of the Commission's economy drive and the said arrangement.
 - Where the exchange of gifts/souvenirs is unavoidable, officers should only present one standard souvenir inscribed with the ICAC logo to the organisation concerned.
 - No gifts/souvenirs should be given on a personal basis.
 - If it is deemed appropriate to present non-standard gifts/souvenirs to an organisation, the approval of HoD should be sought and Admin Branch should be duly alerted.
 - For proper record of accounting purpose, the nature of gift/souvenir, quantity, value and officials/organisation presented with the gift souvenir should be provided to the Finance Office, as far as possible, for effecting payment.
 - The Admin Branch will report to the Advisory Committee on Corruption on a regular basis any departure from the normal practice in respect of presenting gifts/souvenirs to external parties.

Commission Standing Orders (Part I)

Chapter : 09

Title : Conduct and Discipline

Internal Reference : 09-03

Section : 03

Heading : Acceptance of Advantages

Version Date : 04/10/2013

Definition of 'advantage'

1. 'Advantage' is defined in section 2 of the Prevention of Bribery Ordinance (POBO) (Cap. 201) to mean almost anything which is of value, except entertainment which will be covered under CSO (I) 09-04. Common examples include any gift (both of money and in kind), loan, fee, reward, commission, sponsorship, office, employment, contract, service, favour, etc.

2. It may constitute an offence under section 3 of the POBO (Cap. 201) if an officer solicits or accepts any advantage not in accordance with the general or special permission given under the Acceptance of Advantages Notice (AAN).

Restricted advantages

3. The AAN lists the advantages that a government officer may solicit or accept without committing an offence under section 3 of the POBO (Cap. 201). Under this Notice, the Chief Executive has given general permission to an officer to solicit or accept advantages without restrictions (including favours and loans of objects) except for four types specified as 'restricted advantages' which may only be solicited or accepted under certain circumstances having regard to the relationship with the offeror, the occasion the advantage is offered and the value of the advantage. The 'restricted advantages' under the AAN are -

- (a) gifts (both of money and in kind);
- (b) discounts;

- (c) loans of money; and
- (d) air, sea and overland passages.

4. An officer should read **Annex 9-A2** 'Circumstances for Accepting Restricted Advantages' to familiarise himself with the limited circumstances under which general permission is given under the AAN for him to solicit or accept any 'restricted advantage'. In case of doubt, he should seek clarification from his supervising officer at the SCACO level or above.

Special permission

5. In circumstances not covered by the general permission under the AAN, an officer should apply to his Head of Department for special permission (using the sample form at **Annex 9-A3** 'Application for Special Permission to Accept Restricted Advantages' prior to or as soon as reasonably possible after accepting any 'restricted advantage' in accordance with paragraphs 8 and 9 of the AAN.

Conflict of interest

6. An officer may be prosecuted for an offence if he solicits or accepts any advantage (even one otherwise permitted under the AAN) if the solicitation or acceptance relates to his official duties or the business or affairs of the Commission in circumstances prohibited by section 4 or section 9 of the POBO (Cap. 201). If an officer misuses his public office to further his private interests, he may also be prosecuted for the common law offence of misconduct in public office. If the Department of Justice considers that the circumstances of such conduct do not warrant prosecution, either under the POBO (Cap. 201) or the common law, the officer may nevertheless be liable to disciplinary action. (See also CSO (I) 09-05.)

Acceptance of advantages presented in one's official capacity

7. An officer is discouraged from accepting advantages presented to him in his official capacity.

Acceptance of gifts

8. The policy of the Commission is to limit to the minimum the exchange of gifts on official occasions. Where an exchange of gifts is unavoidable on a particular occasion, the exchange should be made from organisation to organisation. Although it may be difficult formally to ask visitors not to offer any gift, it would be desirable to disclose the Commission's policy on this matter to other organisations wherever possible in advance. Where gifts are presented to an officer in his official capacity, including prizes won through free lucky draws or free raffle tickets during official functions, they are to be regarded as gifts to the Commission, which the officer receives on its behalf. Where it can be done without causing offence or embarrassment, the gift should be returned to the donor with a carefully worded explanation that Commission policy restricts the acceptance of gifts and a polite word of gratitude for the thought behind the gifts. A gift should only be accepted in circumstances where it is considered that its acceptance cannot be declined. Special attention should be paid to avoid conflict of interest and other situations which may constitute an offence under section 4 of the POBO (Cap. 201).

Report of acceptance of gifts

9. As soon as possible after gifts are presented and accepted, an officer should make a report to his Head of Department in the format shown in **Annex 9-A4** 'Report on Acceptance of Gift Presented to an Officer in His Official Capacity'. Staff are not required to seek permission for accepting gifts which are of no commercial or resale value, e.g. plaques, banners, pennants, printed calendars,

laissee envelopes, which are marked with inscriptions and names of organisations. However, they are required to make reports to their supervisors at SCACO level or above who will decide on how these gifts should be disposed of. Where an officer wishes to retain the gift personally, he should seek prior approval from his Head of Department or the designated directorate officer.

Guidelines for disposal of official gifts

10. The Commission's guidelines for the disposal of official gifts are set out at **Annex 9-A5** 'Guidelines for the Disposal of Gifts Presented to an Officer in his Official Capacity'. Directorate officers wishing to retain gifts received on official occasions must seek permission from the Commissioner.

11. If an officer has any doubt about the disposal of gifts he has received on an official occasion, he should consult his Head of Department.

Acceptance of honorarium

12. Notwithstanding Civil Service Regulation 550(j), ICAC officers are not allowed to receive honorarium for talks delivered on behalf of the Commission. Should it be considered offensive or difficult to reject a fee, the officer should make a report to the AD/A who will arrange for the fee to be paid to the General Revenue via the Treasury.

Flight awards from duty travel, overseas posting and training

13. Approval is given under Civil Service Bureau Circular No. 14/95 for officers to accept flight awards earned from duty travel, overseas posting and training, subject to the conditions stipulated in paragraphs 14 to 16 below.

14. The Commission does not oblige officers on duty travel/overseas posting/training to claim flight awards from such passages. However, if and when such awards are claimed and credited to an officer's personal mileage account, the officer should report the awards to S/MA2 via the Approving Authorities stipulated in CSO Chapter 26-04 using the forms, 'Statement of Account for Overseas Duty for *Investigation/Non-investigation Purpose' or 'Statement of Account for Training Outside Hong Kong' to facilitate planning for the possible use of the awards for subsequent official travel. Directorate officers must report to the Commissioner and other officers to the Heads of Department should there be a conflict of interest between the acceptance of the travel awards and the officers' official duties.

15. The first call on the use of mileage awards must be for official purposes. For this purpose, S/MA2 will keep a log register of mileage awards in the Supplies Office which is responsible for booking of air passages for ICAC officers on duty travel, overseas posting and training. Where possible, flight awards will be used to provide a passage for another officer for duty travel, overseas posting or training or to upgrade a passage.

16. If an award is not expected to be used for subsequent official travel before the expiry date of the award, prior approval for using the award for private use must be sought from the Commissioner for a directorate officer and AD/A for other officers via S/MA2 who will check, among other things, whether the award has been duly reported and whether it is expected to be used for official purposes before its expiry date. The Commissioner is required to report to the CE Office if he/she wishes to use the mileage awards for his/her private use.

Flight awards from other government passages

17. Officers may accept flight awards earned from other government passages, including leave and leave-cum-duty passages. General permission has

already been given under paragraph 4 of the AAN for them to accept such awards.

18. An officer should report to his Head of Department if there is a conflict of interest between the acceptance of the flight award and his official duties.

Courier passages

19. All officers are **NOT** allowed to undertake courier duties and to accept the free or discounted passages offered.

Acceptance of free service

20. Although free service is regarded as an 'unrestricted advantage' under the AAN for the purpose of section 3 of the POBO (Cap. 201), an officer should ensure that he has no official dealings with the service providers before accepting the service so that he will not be obligated to arbitrarily favour the service providers in their official dealings with the Commission. In case of doubt, an officer should consult his supervisor.

21. If an official relationship between the officer and the service provider arises after acceptance of the service, the officer should report the acceptance to his Head of Department so as to avoid a perceived conflict of interest.

Gifts for Social Functions

14. It is customary for officers to present gifts when invited to social functions (such as wedding or birthday parties) hosted by local leaders who have frequent official contact with the Commission. Subject to the following financial limits on the value of such gifts, the expenditure involved is chargeable to Component 149 General Departmental Expenses Item 566 Official Entertainment (Local) -

<u>Gift</u>	<u>Maximum Value</u> (\$)
(a) one gift to be purchased when only one officer is invited	400
(b) one joint gift to be purchased when two officers are invited	600
(c) one joint gift to be purchased when more than two officers are invited	800

15. Officers are advised that as far as possible, gifts rather than cash should be offered. There is no particular restriction on the type of gifts and the general guideline is that a gift suitable to the occasion should be presented. Common sense and social norm should prevail. The greeting card accompanying the gift should contain all the names of the officers invited to the function.

Offering and Exchange of Gifts / Souvenirs

16. Offering of gifts / souvenirs to ICAC contacts are chargeable to Component 149 General Departmental Expenses Item 402 Office Stationery and Materials. As a general principle, officers should not offer gifts / souvenirs to official guests and should avoid as far as possible exchanging gifts / souvenirs with official guests. As appropriate, the organization concerned should be notified in advance of the arrangement and the Commission's economy drive. Where the exchange of gifts / souvenirs is unavoidable, officers should only present one standard souvenir inscribed with the ICAC logo (e.g. ICAC Building model, ICAC Annual Report or ICAC plaque, etc.) to the organisation concerned. No gift / souvenirs should be given on a

personal basis. If it is deemed appropriate to present non-standard gifts / souvenirs to an organisation, the approval of HoD should be sought and Admin Branch should be duly alerted. For proper record of accounting purpose, the nature of gift / souvenir, quantity, value and officials / organisations presented with the gift / souvenir should be provided to the Finance Office, as far as possible, for effecting payment.

17. To enhance checks and balances, the Admin Branch will report to the Advisory Committee on Corruption on a regular basis any departure from the normal practice in respect of entertainment functions and presenting gifts / souvenirs to external parties

附錄I

第 3 項： 請提供廉署現行標準紀念品一覽表，連同每項紀念品價值的詳情。

➤ 廉署現行的標準紀念品包括：

	<u>現時單價</u>
● 廉署大樓擺設（大／小）	\$135／\$400
● 廉署袖扣／別針／領帶／咖啡杯／鎖匙圈	\$25 – \$90
● 廉署盾牌	\$230 – \$560
● 鎖匙圈及原子筆禮盒／廉署原子筆	\$50 – \$280

➤ 此外，廉署尚存有以往購置而並未耗用及附有廉署標誌的紀念品，包括廉署水杯、名片座、便箋筆座、紀念章、銀碟、紙鎮及文件套、記憶棒及名片盒套裝、誠信寶鼎、廉署紀念筆、香港景水晶擺設等。除少量的廉署紀念筆（單價\$1,665 – \$2,168）及香港景水晶擺設（單價\$1,425 – \$2,175）外，其餘紀念品的單價約由\$9.5 至\$800 不等。

Appendix I

Item 3: Please provide a list of the standard souvenirs currently available in the ICAC with details on the value of each of the souvenirs.

- The standard souvenirs currently available in the ICAC include:

	<u>Current unit price</u>
● ICAC Building display (big/small)	\$135/\$400
● ICAC cufflink/pin/tie/coffee mug/key ring	\$25 - \$90
● ICAC plaque	\$230 - \$560
● Key ring and ball pen gift set/ICAC pen	\$50 - \$280

- Besides, the ICAC still has in stock souvenirs with the ICAC logo. Those souvenirs were bought previously but have not yet been given out. They include ICAC glasses, name card holders, memo pads and pen holders, commemorative badges, silver plates, paperweights and folders, memory sticks and name card holder gift sets, tripods, ICAC commemorative pens and crystal displays with Hong Kong views, etc. The unit prices of the few items of ICAC commemorative pens range from \$1,665 to \$2,168 while those of the crystal displays with Hong Kong views from \$1,425 to \$2,175. For the rest of the souvenirs, their unit prices vary from around \$9.5 to \$800.

附錄I

第 4 項： 關於廉署向貪污問題諮詢委員會提交以供審閱的周年開支預算，請說明廉署有否提供該署下述項目的開支估計：(a)將進行的外訪；(b)將以東道主身份舉辦的公務酬酢及(c)將予餽贈的禮物；若否，請提供原因。

- 在廉署向貪污問題諮詢委員會提交的周年開支預算中，有關外訪、公務酬酢及紀念品的開支估計，已包括在「一般部門開支」項目之下，並無分項。

Appendix I

Item 4: Regarding the annual estimates of expenditure submitted by ICAC to the Advisory Committee on Corruption for consideration, please advise whether it provides the estimation on expenditure for (a) duty visits to be conducted, (b) official entertainments to be hosted and (c) gifts to be bestowed by ICAC; if not, please provide the reasons for that.

- In the annual estimates of expenditure submitted by ICAC to the Advisory Committee on Corruption, the estimation on expenditure for duty visits, official entertainments and gifts by ICAC was included under the item of General Departmental Expenses.

附錄I

第 5 項： 廉署會否向貪污問題諮詢委員會匯報廉署每年用於**(a)**外訪；**(b)**公務酬酢及**(c)**禮物的實際開支，以及廉政專員用於這 3 個範疇的實際開支；若否，請提供原因。

- 廉署已根據「廉政公署公務酬酢、餽贈及外訪規管制度和程序獨立檢討委員會」報告書的建議，就超逾人均開支上限的公務酬酢及所送贈的非標準禮物的詳請，包括實際開支；向貪污問題諮詢委員會作定期滙報。

Appendix I

Item 5: Whether ICAC will report to the Advisory Committee on Corruption the annual actual expenditure on (a) duty visits, (b) official entertainments and (c) gifts incurred by ICAC, as well as the actual expenditure incurred by the Commissioner on these three areas; if not, please provide the reasons for that.

- The ICAC reports regularly to the Advisory Committee on Corruption details of official entertainments with expenditure per person exceeding the stipulated ceiling and non-standard gifts presented, inclusive of the actual expenditure, as recommended in the Report of the Independent Review Committee on ICAC's Regulatory Systems and Procedures for handling Official Entertainment, Gifts and Duty Visits.

附錄I

第 6 項： 關於廉政專員的每周例會，請提供下述期間出席例會人員的職銜，以及草擬和確認通過例會紀要的程序：**(a)** 在湯顯明先生任內及**(b)**自白韞六先生就任廉政專員以來。

- 在湯顯明先生任內及自白韞六先生就任廉政專員以來，出席廉政專員每周例會的成員包括：廉政專員、執行處首長、社區關係處處長、防止貪污處處長、助理處長／行政及管理及行政總參事。除此以外，社區關係處助理處長／一及首席新聞主任亦會出席例會討論公共關係事宜的部分。
- 該例會的會議紀要有關公共關係事宜的部分由首席新聞主任草擬，其餘部分由管理及行政總參事草擬，經助理處長／行政審閱後，在下一個會議舉行之前向各會議成員發放。如成員認為有需要修正會議紀要，會直接向管理及行政總參事提出。更正後的會議紀要會重新向成員發放。會議成員亦可在下次會議上提出更正。自 2014 年 3 月開始，例會的議程正式加進「確認會議紀要」項目。

Appendix I

Item 6: With regard to the ICAC's Commissioner's Weekly Meeting, please provide the post titles of the attendees and the procedures for drafting and confirming the minutes of these meetings (a) during Mr Timothy TONG's tenure and (b) since Mr Simon PEH assumed the office of ICAC Commissioner.

- During Mr Timothy TONG's tenure and since Mr Simon PEH assumed the office of ICAC Commissioner, members of the ICAC's Commissioner's Weekly Meeting include: ICAC Commissioner, Head of Operations, Director of Community Relations, Director of Corruption Prevention, Assistant Director/Administration (AD/A) and Chief Staff Officer/Management & Administration (C/MA). In addition, Assistant Director/Community Relations 1 and Principal Press Information Officer (PPIO) also attend the meeting in relation to the Public Relations Items.
- Notes of these meetings covering the Public Relations Items were drafted by PPIO and the rest by C/MA. The draft which was reviewed by AD/A was sent to the members before the next meeting. Any suggestions from the members for amendment to the meeting notes could be made to C/MA direct and the notes after amendment would be re-distributed to the members. Members could also request to amend the notes on the next meeting. The item of Confirmation of Notes of Meeting has been formally included in the agenda of the Weekly Meeting since March 2014.

附錄II

何秀蘭議員予 L 組主管的提問：

- 由於何秀蘭議員所要求回答其提問的人員，可能會就有關湯顯明先生的刑事調查及在未來或會進行的法律程序中，被邀請作為證人，為免影響相關刑事調查及法律程序的公正性，該些人員故此不能回答何議員的問題。本署根據現有資料，就有關問題作覆如下：
 1. 在前專員在任期間，可有收過任何關於專員或其他職級人員不當處理酬酢送禮以及／或外訪安排等投訴？若有，請回答以下問題。
 - 由於提問涉及廉署刑事調查範圍，我們故此不能提供相關資料。
 2. 該等投訴的內容為何？投訴來自哪個職級的人員？
 - 由於提問涉及廉署刑事調查範圍，我們故此不能提供相關資料。
 3. L 組如何跟進該等投訴？若被投訴的對象為廉政專員，L 組如何處理？請告知本會一般的跟進程序，可不涉及個案的內容。
 - L 組對所有有關廉署人員的投訴，不論人員職級的高低，皆會持守保密的原則，公平公正地作出跟進和調查。如投訴涉及貪污或其他刑事不當行為，廉署會向律政司尋求意見，如決定個案應由廉署作出調查；一般而言，L 組會跟進及向執行處首長負責；並就調查結果向律政司呈交報告。在個案完結後，亦會向審查貪污諮詢委員會遞交內部調查報告。如投訴不涉刑事，L 組會跟進及向執行處處長／私營機構負責；就一些並非由內部人員提出的投訴，L 組會向「廉政公署事宜投訴委員會」呈交調查報告。

Appendix II

The question put to the Head of L Group by the Hon. Cyd HO Sau-lan:

- As the officer requested to answer the questions put by the Hon. HO Sau-lan, Cyd may be invited to act as a witness in the criminal investigation and the legal proceedings, if any, relating to Mr Timothy TONG, the officer cannot answer those questions to avoid affecting the impartiality of the relevant investigation and proceedings. Nevertheless, based on the information currently available, the Commission replies as follows:
 - 1. During the tenure of the former Commissioner, were there any received complaints against the Commissioner or officers of other ranks about the improper handling of entertainment and bestowing of gifts and/or duty visit arrangements? If yes, please answer the following questions.**
 - We cannot disclose the relevant information as the question falls within the scope of criminal investigation by the ICAC.
 - 2. What were those complaints about? What were the ranks of the officers who lodged the complaints?**
 - We cannot disclose the relevant information as the question falls within the scope of criminal investigation by the ICAC.
 - 3. How did L Group follow up on those complaints? How would L Group handle a complaint lodged against the Commissioner of the ICAC? Please inform this committee the general procedures without making reference to the case details.**
 - L Group adheres to the principle of confidentiality in following up and investigating all complaints against ICAC officers, irrespective of their ranks, in a fair and just manner. If a complaint relates to corruption or other criminal malpractice, the ICAC will seek advice from the Department of Justice (DoJ). If it is decided that the ICAC should look into the case, as a general rule, L Group will take follow-up action and report to the Head of Operations before submitting the investigation report to the DoJ. In addition, an internal investigation report will be submitted to the Operations Review Committee when the case is closed. If the complaint does not involve any criminal element, L Group will follow up on the case and report to the Director of Investigation/Private Sector. Regarding complaints not lodged by internal staff, L Group will submit the investigation reports to the ICAC Complaints Committee.

附錄 III

何秀蘭議員予廉政公署策略研究組成員的提問：

- 由於何秀蘭議員所要求回答其提問的人員，可能會就有關湯顯明先生的刑事調查及在未來或會進行的法律程序中，被邀請作為證人，為免影響相關刑事調查及法律程序的公正性，該些人員故此不能回答何議員的問題。本署根據現有資料，就有關問題作覆如下：

1. 被調任到策略研究組之前，在哪個部門擔任什麼職位？直隸上司是誰？

- 曾調任到策略研究組的人員，是來自廉署三個部門的廉政主任（甲）或廉政主任（乙／丙）。調職前，他們分別擔任調查、防貪及教育宣傳工作；他們的上司為其所隸屬組別的高級廉政主任或廉政主任（甲）。

2. 調任到策略研究組之後，有沒有人告知你研究的職責範圍？如有，是用口頭抑或書面方式告知？經由誰人告知職責範圍？

- 跟政府部門一般常規，廉署所有單位的職位，包括策略研究組，均有各自的職務表，詳細訂明職位的工作範圍及職能。

3. 誰人是策略研究組的直隸上司？除了這名上司以外，有沒有其他人參與傳遞上司下達的工作指令？

- 策略研究組隸屬於行政總部之下，其直隸上司為助理處長／行政。助理處長／行政直接向廉政專員負責。除助理處長／行政以外，廉政專員亦會向策略研究組下達指令。

附錄 III

4. 調職策略研究組之後，是否正式脫離原來的隸屬部門？薪酬開支編制是否撥到策略研究組？還是仍然在原的隸屬部門的開支之中？有沒有被告知不可將策略研究組的工作告知原來部門的上司？
 - 各有關人員乃根據廉署的跨部門職員對調計劃被調派到策略研究組工作，在完成工作後，各人員已被調回原屬部門。由於該組隸屬行政總部，各人員的薪酬開支編制均屬行政總部。所有受聘於廉政公署的人員均須嚴守香港特別行政區政府的《保安規例》，在處理資料時恪守廉署常規裏的“需要知道”原則。
5. 在策略研究組工作期間，你研究過什麼策略？工作是否與調任時獲悉的職責範圍相符？
 - 策略研究組的職責範圍包括加強廉署在政策規劃、策略和行政管理範疇的能力，以及改善三個部門的工作協調情況，以提升廉署的整體表現。該組曾研究過數個項目。
6. 在策略研究組工作期間，你有曾參與與酬酢有關的工作？例如購買或安排購買曲奇或其他食物或禮物和紀念品等。這些參與酬酢活動的指令由誰人發出？經由誰人傳遞？
 - 由於提問涉及廉署刑事調查範圍，我們故此不能提供相關資料。
7. 若你曾收過上述題(6)的指令，你當時有質疑該等工作與肅貪倡廉有何關係？若有，可有向傳遞指令的人或管理研究組的上司或原來所屬的部門的上司提出？他們有何反應？若沒有，原因為何？
 - 由於提問涉及廉署刑事調查範圍，我們故此不能提供相關資料。

附錄 III

8. 你可曾參加廉政專員香港境內或境外的酬酢活動？若有，可曾質疑該等酬酢與肅貪倡廉有何關係？若有，可有向傳遞指令的人或管理研究組的上司或原來所屬的部門上司提出？他們有可反應？若沒有，原因為何？

➤ 由於提問涉及廉署刑事調查範圍，我們故此不能提供相關資料。

9. 你是否知悉公務人員需遵守關於致送禮物或收受禮物的指引？可有質疑購買禮物如數碼相機、頸巾、石刻擺設等並不符合相關指引？若有，可有向傳遞指令的人或管理研究組的上司或原來所屬的部門上司提出？他們有何反應？若沒有，原因為何？

➤ 由於提問涉及廉署刑事調查範圍，我們故此不能提供相關資料。

Appendix III

Questions put by the Hon. HO Sau-lan, Cyd to officers of the Office of Strategic Research (OSR), ICAC:

- As the officers requested to answer the questions put by the Hon. HO Sau-lan, Cyd may be invited to act as witnesses in the criminal investigation and the legal proceedings, if any, relating to Mr Timothy TONG, the officers cannot answer those questions to avoid affecting the impartiality of the relevant investigation and proceedings. Nevertheless, based on the information currently available, the Commission replies as follows:

1. Before deployment to the OSR, what was your position and serving department? Who was your immediate supervisor?

- Officers deployed to the OSR were holding the ranks of Commission Against Corruption Officer (Upper) or Commission Against Corruption Officer (Middle/Lower) in the three departments of ICAC. Before the redeployment, they were respectively responsible for investigation, corruption prevention and education/publicity work. Their supervisors were in the rank of Senior Commission Against Corruption Officers or Commission Against Corruption Officers (Upper) in their respective groups or sections.

2. After deployment to the OSR, were you informed of the terms of reference relating to your research duties? If you were, were you informed verbally or in writing and by whom?

- Same as the Government's practice, the ICAC has drawn up a duty list specifying the responsibilities and functions of each and every position in the Commission, including the OSR.

3. Who was the direct supervisor of the OSR? Apart from that supervisor, was there any other officer involved in passing down orders given by the said supervisor?

- The OSR was under the Administration Branch with the Assistant Director/Administration (AD/A) as its direct supervisor who reported to the Commissioner, ICAC. Apart from AD/A, the Commissioner also gave instructions to the OSR.

4. After deployment to the OSR, were you officially transferred away from your previously serving department? Were the relevant salary expenses placed under the expenditure of the OSR or your previously serving department? Were you informed that you could not disclose your work in the OSR to your supervisor in your previously serving department?

- The officers were deployed to the OSR under a cross-posting scheme. They were transferred back to their parent department after completing their work in OSR. As the OSR was under the Administration Branch, those officers' salary expenses and establishment were placed under the Administration Branch. All ICAC officers are required to strictly comply with the Security Regulations of the HKSAR Government and adhere to the "need-to-know" principle in handling information as promulgated in the CSO.

5. What strategies were covered in your research areas when you were serving the OSR? Were your duties consistent with the terms of reference that you were informed of when you were deployed to the OSR?

- The terms of reference of the OSR included strengthening the Commission's capabilities in policy planning, strategy formulation and administration as well as enhancing the overall performance of the ICAC by optimising coordination of the three functional departments. The OSR had conducted several research studies.

6. When serving the OSR, were you involved in any entertainment-related duties, such as buying or arranging for someone to buy cookies or other food or gifts and souvenirs? Who gave orders relating to such entertainment activities and who passed down such orders?

- We cannot disclose the relevant information as the question falls within the scope of criminal investigation by the ICAC.

7. If you received an order as referred to in (6) above, were you in doubt at the time as to the relationship between such duties and anti-corruption work? If you were, did you ask the officer passing down the order or your supervisor in the OSR or previous supervisor in your originally serving department? What was their response? If you did not ask them, for what reasons?

- We cannot disclose the relevant information as the question falls within the scope of criminal investigation by the ICAC.

8. Did you ever participate in any entertainment function taking place in or outside Hong Kong? If you did, were you in doubt as to the relationship between such entertainment and anti-corruption work? If you were, did you ask the officer passing down the order or your supervisor in the OSR or previous supervisor in your originally serving department? What was their response? If you did not ask them, for what reasons?

- We cannot disclose the relevant information as the question falls within the scope of criminal investigation by the ICAC.

9. Are you aware that civil servants are required to comply with the guidelines on presenting or receiving gifts? Were you in doubt as to whether the procurement of gifts like a digital camera, a scarf or a stone craved display were against the relevant guidelines? If you were, did you ask the officer passing down the order or your supervisor in the OSR or previous supervisor in your originally serving department? What was their response? If you did not ask them, for what reasons?

- We cannot disclose the relevant information as the question falls within the scope of criminal investigation by the ICAC.

附錄 IV

何秀蘭議員予行政總部管理及行政高級參事二的提問：

- 由於何秀蘭議員所要求回答其提問的人員，可能會就有關湯顯明先生的刑事調查及在未來或會進行的法律程序中，被邀請作為證人，為免影響相關刑事調查及法律程序的公正性，該些人員故此不能回答何議員的問題。本署根據現有資料，就有關問題作覆如下：
 1. 在前專員任期之內，曾否發覺就有關酬酢、送禮及外遊的開支單據不符合廉署的開支指引及公務員需遵從的相關守則？若有，曾否拒絕發還開支？並如何跟進與提交單據中申請發還開支的人員跟進？若有拒絕發還開支的情況，申請發還開支的人員的上司曾否與行政總部管理及行政高級參事跟進要求發還？他們所持的理由為何？該等理由是否被接受？為何被接受？有多少條關乎酬酢、送禮及外遊的發還開支申請被拒絕？
 - 由於提問涉及廉署刑事調查範圍，我們故此不能提供相關資料。
 2. 若行政總部管理及行政高級參事與申請發還撥款人員的上司就申請持不同意見，又有何機制處理？
 - 若行政總部管理及行政高級參事（參事）與申請發還撥款人員的上司就申請持不同意見，參事會向有關人員書面詳細解釋相關的規例，並要求人員遵照規例行事。在人員未採取適當行動之前，參事不會發還撥款。如有需要，參事會進一步向上級反映，及尋求指示。

Appendix IV

The question put to the Senior Staff Officer/Management and Administration 2 (SSO) of the Administration Branch by the Hon. Cyd HO Sau-lan:

- As the officer requested to answer the questions put by the Hon. HO Sau-lan, Cyd may be invited to act as a witness in the criminal investigation and the legal proceedings, if any, relating to Mr Timothy TONG, the officer cannot answer those questions to avoid affecting the impartiality of the relevant investigation and proceedings. Nevertheless, based on the information currently available, the Commission replies as follows:
 1. **During the tenure of the former Commissioner, was there any receipt for the expenses on entertainment, bestowing of gifts or duty visits found to have breached the ICAC's guidelines on expenditure and the relevant rules that civil servants are required to observe? If yes, was any claim for reimbursement rejected? How to follow up on a claim with the claimant? If a claim was rejected, did the claimant's supervisor follow up on the claim for reimbursement with the SSO of the Administration Branch? What was the justification? Was such justification accepted? Why was it accepted? How many claims for reimbursement of expenses on entertainment, bestowing of gifts and duty visits were rejected?**
 - We cannot disclose the relevant information as the question falls within the scope of criminal investigation by the ICAC.
 2. **What is the mechanism for dealing with a situation in which the SSO of the Administration Branch and the claimant's supervisor held different views on a claim?**
 - If the SSO of the Administration Branch and the claimant's supervisor held different views on a claim, the SSO would explain the relevant regulations to the officer concerned in writing and request him/her to act in accordance with the regulations. The SSO would not reimburse the expenses unless the officer has taken appropriate action. If necessary, the SSO will also report to and seek advice from his/her supervisor.