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Education Bureau
Government Secretariat, The Government of the Hong Kong Special Administrative Region
The People's Republic of China

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19 January 2016

Mr Anthony Chu
Clerk to Public Accounts Committee
Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road
Central
Hong Kong

Dear Mr Chu,

Consideration of Chapter 3 of the Director of Audit's Report No. 65
Use and disposal of vacant school premises

Thank you for your letters dated 6 and 7 January 2016 on the captioned subject. Please find attached the requested information. Thank you.

Yours sincerely,

(Mrs Elina Chan)
for Secretary for Education

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Secretary for Development

Secretary for Financial Services and the Treasury

Director of Lands

Chapter 3 of the Director of Audit's Report No. 65
Use and disposal of a vacant school premises

The Administration's Response to
Issues Raised in Letters of 6 and 7 January 2016

- (a) **Please set out the Education Bureau's ("EDB") policy in handling, managing and allocating vacant school premises ("VSP"). Please illustrate how the policy on VSP has been implemented regarding the 234 VSP listed on its database.**
- (b) **For the 105 VSP not being used as at 30 April 2015, please indicate their status based on the procedures set out in the flowcharts on the mechanism of handling of VSP provided in Annexes 3, 4(a) and 4(b) of your reply dated 31 December 2015; and**
- (c) **Whether EDB would consider setting an indicative timeframe for each procedure as stipulated in Annexes 3, 4(a) and 4(b) of your reply dated 31 December 2015, where appropriate, with a view to expediting the processing of VSP and facilitating the monitoring by the Legislative Council and the public.**

It has all along been EDB's policy objective to put VSP into gainful use. To achieve this policy objective, when there is a vacant or to-be-vacated school premises, EDB will consider the size, location and physical conditions of the relevant premises with a view to assessing the VSP's suitability for educational use or whether the premises is needed to be re-allocated for school or other educational use. In addition, EDB will also take into account factors like the demand for public sector school places in the district, reprovisioning needs of existing schools especially those in the district, the need for decanting premises for in-situ redevelopment or extension of existing schools, and the need to provide diversity in the school system etc., with a view to meeting various educational needs in the territory and supporting relevant policy initiatives. Once EDB confirms that the VSP are no longer required by EDB for school or other educational uses, EDB would refer them to the Planning Department (PlanD) for consideration of suitable alternative uses in accordance with the central clearing house mechanism.

2. As mentioned in ^{Appendix 27} ~~EDB's reply on 31 December 2015~~ and in the public hearing held on 5 January 2016, there is a need to earmark/retain some VSP to cater for the anticipated increase in demand for school

places in future and for corresponding flexible arrangements in light of the uncertainties involved. It is therefore not practicable to impose a fixed target on the vacancy period of a VSP or the period of earmarking a VSP. The Infrastructure and Research Support Division (“IRSD”) of EDB, on a half-yearly basis, circulates a list of new VSP and VSP not yet earmarked for any use to the subject EDB divisions for proposals on educational uses and/or short-term uses (where appropriate), and a list of those VSP with earmarked uses to the EDB divisions concerned for update (if any) on the timeline of the proposed uses and invite them as well as other divisions to propose short term uses with reference to the timeline. Besides, IRSD also identifies suitable VSP for use upon subject EDB divisions’ requests from time to time on a need basis. With latest inputs from subject EDB divisions, IRSD also compiles and circulates, on a half-yearly basis, a list of VSP suitable for short-term use to relevant bureaux/departments (including the Home Affairs Bureau, Home Affairs Department (“HAD”), Lands Department (“LandsD”), PlanD, and Social Welfare Department) with a view to identifying short-term use pending the deployment of such premises for the earmarked use so that the land resources can be gainfully used.

3. Regarding the allocation of VSP for school use, EDB in general will openly invite eligible bodies in the territory to apply for the use of the relevant premises through the School Allocation Exercises (“SAE”). Applicants are required to submit application forms and other documents as needed. Allocation of school premises is generally conducted on a competitive basis amongst the applicants through SAE. In assessing the applications, quality of education is the prime consideration of the School Allocation Committee (“SAC”) (comprising both official and non-official Members). Other factors, e.g. the operation track record of the applicants (if applicable), the proposed school plans, etc., will be considered. When assessing the applications, SAC will give due consideration to each case before working out the recommendations for school allocation. If necessary, the applicants will be invited to attend an interview with SAC.

4. For VSP proposed to be redeployed for other educational use, EDB is required to put forward its proposed use with substantial justifications to PlanD for assessment and compete with other government departments on the use of such VSP.

5. The current VSP database of EDB contains all VSP that have been known to IRSD since July 2005. It includes those VSP which have been demolished or to-be-demolished for other use, as well as those VSP

that EDB have “returned” under the central clearing house mechanism, i.e. EDB has informed PlanD and relevant departments (e.g. LandsD and Housing Department (“HD”)) that the premises are not required by EDB for educational use. According to the findings in paragraph 3.5 of the Audit Report, as at 30 April 2015, there were 234 VSP in EDB’s database and their status were as follows:

- (a) 105 premises not being used, with 29 under EDB, 73 under LandsD and 3 under HD;
- (b) 102 premises being used, with 77 under EDB, 17 under LandsD and 8 under HD, Government Property Agency or HAD; and
- (c) 27 premises have been demolished or to-be-demolished for housing or other developments.

6. Regarding the 29 premises under EDB which were not being used (re paragraph 5(a) above), if the mechanisms as stipulated in ~~Annex 3, 4(a) and 4(b) of the EDB’s reply on 31 December 2015~~ ^{Appendices 32, 33 and 34} are applied, the status of these 29 premises as at 21 December 2015 were as follows:

- For the four VSP located on private land which EDB had confirmed not required for allocation for school or other educational use, PlanD and LandsD have been informed under the central clearing house mechanism. LandsD will handle the four cases in accordance with the mechanism set out in the said ~~Annex 4(b)~~ ^{Appendix 34}. Three of these four premises do not have a cessation of user clause in the respective land leases;
- There were 19 premises located on government land and retained by EDB for school or other education use. Among them, seven premises have already been re-deployed and one premises has been handed over to an international school operator allocated with that premises following execution of the tenancy agreement. Of the remaining 11 premises not yet put to use, five premises have been earmarked for school use, four premises have been earmarked for temporary school use and two premises have already been allocated for school use; and
- For the remaining six premises located on private land, one of them has been allocated for other educational use and three premises are being used or have been planned for other educational use with EDB’s policy support. The service agreement of one premises

(Case 6 as mentioned in the Audit Report) contains a surrender clause and EDB is exploring with relevant departments on how to require the school sponsoring body (“SSB”) to carve out and surrender the relevant school site in accordance with the service agreement. As regards the remaining one premises, EDB will ascertain whether the premises is required for educational use and will follow-up with LandsD in accordance with the mechanism set out in ~~Annex 4~~^{Appendices 33 and 34}.

7. Regarding the three premises under HD on government land which have not been put to use, EDB is considering whether to earmark one of them for school use again. For details, please refer to ~~HD’s reply on 31 December 2015~~^{Appendix 37}. The remaining two VSP have been “returned” under the central clearing house mechanism, i.e. EDB has already informed PlanD and HD for consideration of alternative use. In respect of VSP under LandsD, we noted that the Public Accounts Committee Secretariat has separately written to LandsD for such information, and we therefore did not cover the same here.

8. ~~our reply on 31 December 2015~~^{Appendix 27}, On the management of VSP, as mentioned in paragraph II.2 of ~~our reply on 31 December 2015~~, the management agent of VSP is determined by the VSP’s land status. For example, for VSP “returned” by EDB under the central clearing house mechanism with physical possession delivered to the relevant departments, management responsibility of those VSP rests with the departments concerned. For VSP located on private land owned by SSBs, the management responsibility of VSP rests with the relevant SSBs. EDB is responsible for the management of VSP located on sites under Permanent Government Land Allocation (“PGLA”) to EDB, including those which have been “returned” under the central clearing house mechanism but LandsD has requested EDB to continue managing the VSP until the next users are identified and the relevant PGLA are terminated. As far as EDB is concerned, the scope of management for those VSP mainly includes security patrol and inspections, pest control, removal of litter, cleansing and weeding. Such VSP management services have been arranged since 2007 and will be provided on a daily, weekly or bi-weekly basis, depending on EDB’s assessment of the need, value and condition of the VSP concerned, as well as the cost involved.

9. As mentioned in paragraphs 1 and 2 above, EDB would take into account a basket of factors and periodically assess the possible educational use of the VSP under EDB. Setting a fixed target of vacancy period or number of VSP arbitrarily may result in returning VSP in haste and compromising the flexibility required for meeting changing

demand and various needs, including reprovisioning of existing schools for improved learning and teaching environment or decanting use by existing schools to facilitate in-situ redevelopment or extension. With the policy objective of putting VSP into gainful use in mind, EDB strives to facilitate the utilisation of VSP in an expeditious manner. Notwithstanding, it is not practicable to impose a fixed target on the time allowed or a fixed timetable for the process.

(d) Is there any plan for EDB to enhance its database on VSP and/or registration database of schools by capturing more relevant information for better identification, categorization and disposal of VSP? If yes, please provide details and the timeframe. If not, the reasons for not doing so.

10. The existing VSP database of EDB, which has been set up based on information available in July 2005, captures the basic information of VSP, including the former school name, address, number of classrooms and special rooms, year of closure, site area (approximate), age of the premises (approximate), basic land status category (government or private land), etc. EDB is reviewing the mechanism for data collection and updating with a view to better identifying and categorising VSP from the perspective of the use and disposal of VSP, including better defining what constitutes VSP or VSP requiring handling. The land status and type of school will be main considerations. For this purpose, we will draw up an internal manual to set out the requirements and guidelines on the identification, screening, allocation and management of VSP for all related EDB sections to follow. We will also add the finance type of the former school and the information relevant to the land on which the VSP is located, including details about the type of land (e.g. whether the land is granted under a Private Treaty Grant), whether the lease contains a land use restriction clause and cessation of use clause, etc., with a view to stepping up the arrangements regarding the identification, assessment and handling of VSP. We aim at completing the abovementioned actions in six months' time.

(e) For Case 3 of the Audit Report, School U has been used for temporary school decanting use since December 2008 and is being used as a decanting site of an international school. In this connection, when will the current decanting exercise end? Is there any plan for the use of the premises after this decanting exercise? If yes, please provide details.

11. Regarding Case 3 of the Audit Report, the land grantee has

arranged the premises of School U for temporary decanting use by an international school during its redevelopment until July 2016 after obtaining the temporary waiver relating to the land use restriction from LandsD. EDB will liaise with LandsD on how to handle the premises after the expiry of the said temporary waiver, pursuant to the mechanism mentioned in ~~Annex 4 of EDB's reply on 31 December 2015~~.

Appendices 33 and 34

(f) How many VSP sites are current used for decanting purpose? Are there any plan(s) for using these sites for any other purpose(s)?

12. As mentioned in paragraph 3.5 of the Audit Report, as at 30 April 2015, 77 of 102 premises being used were under EDB's purview. Among these premises, six are now being used as temporary premises for decanting of schools under in-situ redevelopment or extension or phasing out during the transient period. These include four premises on government land and two on private land. The four premises on government land have been earmarked for educational use. EDB will review the relevant timetable and timely explore possible uses upon the expiry of the current decanting use in accordance with the established mechanism. Regarding the two premises on private land, EDB will deal with the premises according to the mechanism for handling VSP on private land (i.e. the mechanism in ~~Annex 4 mentioned in our reply on 31 December 2015~~).

Appendices 33 and 34

(g) Further to Annex 6 of your reply dated 31 December 2015, a list of school sponsoring bodies which were unsuccessful in applying new or vacant school premises in the past 10 years, including the year of application, the type of education intended to be provided, size and location of the school premises and reasons for not granting the new or vacant school premises by EDB;

Not attached

13. In Annex 6 of EDB's reply on 31 December 2015, we have provided a table listing out the information on SAE conducted since 2005, including the purposes of the respective exercise, the number, districts and location of the new sites/premises allocated, name of successful SSB/applicants, number of unsuccessful SSBs/applicants, and if VSP were involved, the names and year of cessation of school operation of the VSP concerned etc. Since all the information provided by the SSBs/applicant bodies to the Government in connection with applications for SAE can only be used for processing the SAE concerned, EDB is not able to disclose details of the unsuccessful applications to the Public Accounts Committee. This also avoids inappropriate labelling of the

applicants.

14. As mentioned in paragraph 3 above, once a VSP or to-be-vacated premises/school site is identified for school allocation, EDB will in general invite eligible bodies in the territory to apply for the relevant premises through SAE which is conducted on a competitive basis amongst the applicants. In assessing the applications, quality of education is the prime consideration of SAC. Other factors to be considered include the operation track record of the applicants (if applicable) and the proposed school plans, etc. In evaluating the school plans, aspects assessed by SAC include vision and mission, management and organisation, learning and teaching, school ethos and support for students, performance targets as well as self-evaluation indicators.

15. SAE is conducted in a fair and rigorous manner under the established mechanism. According to past experience, all successful applicant bodies possessed well-defined mission of school operation, vision for quality education and practical experience. The quality of the school plans submitted and the operating standard demonstrated were of excellent standard. In particular, their school plans were visionary, putting forward outstanding proposals to fully utilise the new school premises to further enhance the quality of teaching. Given the keen competition, it is not possible to allocate all applicants with school premises. Therefore, applicants which did not succeed in getting a school premises in SAE does not mean that their service standard is unsatisfactory. EDB will continue to provide VSP or to-be-vacated school premises/school sites for application for school use through SAE from time to time on a need basis.

(h) How will EDB exercise effective monitoring on the operation of international schools built on government land granted by private treaty grant at nil or nominal premium and/or provided with interests-free capital works assistance loans by the Administration? Are there cases under which the school sponsoring body does not comply with the conditions imposed by EDB in the past five years? What follow-up actions have been taken by EDB and/or other departments on these cases? [Letter of 7 January 2016]

16. Generally speaking, international schools operate on a self-financing and market-driven basis. The sponsoring bodies may decide on matters such as the curriculum offered, student mix as well as admission criteria and arrangements.

17. For SSBs allocated with VSP or greenfield sites by the Government for international school development, they are required to enter into Tenancy Agreement (TA) or Private Treaty Grant (PTG). According to the prevailing requirements, SSBs and the schools concerned must be organisations exempted from tax under section 88 of the Inland Revenue Ordinance (Cap 112), and they are required to submit annual accounts audited by certified public accountants under the Professional Accountants Ordinance (Cap 50) to EDB every year. In addition, if international schools would like to apply to EDB for reimbursement of rent and rates, the schools and SSBs concerned must be organisations exempted from tax under the Inland Revenue Ordinance (Cap 112) and be required to submit audited annual accounts to EDB.

18. Since 2008, any SSB allocated with VSP or greenfield sites for international school development is required to enter into a Service Agreement (SA) with EDB. SAs stipulate that the international schools operated and managed by such bodies must comply with the detailed school proposals they submitted under SAE, the school development plans, the Education Ordinance, the Education Regulations, specific conditions under SAE, other relevant laws, as well as other requirements and education policies applicable to international schools as promulgated by the Government from time to time. EDB would conduct on-site inspection visits to individual international schools, and examine the enrolment statistics and audited annual accounts submitted by the schools from time to time to check if the operation of these schools complies with the relevant requirements, e.g. the overall enrolment percentage of non-local students (i.e. those not holding HKSAR Passport or British National (Overseas) Passport). If any SSB breaches the provisions in SA, EDB will take follow up actions. Should an SSB be found to have committed any material breach of SA provisions, EDB is entitled to terminate or not to renew the SA and resume possession of the school premises.

19. In accordance with prevailing policy, subject to approval by the Legislative Council Finance Committee, the Government may provide interest-free capital works assistance loans to international schools allocated with greenfield sites for constructing the school premises. A loan agreement will be signed between EDB and the successful SSB applicant. The agreement will set out the repayment requirements, as well as arrangements in the event the school closes down or in case of default of repayment of the loan. It is common for international schools

to raise capital through introducing various schemes such as debentures, nomination rights or levy for the purpose of funding infrastructural projects in meeting the schools' longer term development needs and enhancing school facilities. EDB has all along requested SSB to consult parents and relevant stakeholders before introducing any such schemes, where the SSBs concerned should clearly explain the reasons for introducing the schemes and the related implementation details (e.g. re-sale and buy-back policy and the related administrative charges). EDB also encourages schools to set up different scholarships and tuition fee assistance schemes to support families in need.

20. In the past five years, no international schools have committed material breach of the provisions of SA or TA/PTG. Only a few schools have not met specific SA requirements in a timely manner, e.g. offering the specific number of places as set out in the school proposals, ensuring that a specific percentage of students are non-local students, etc. EDB has already requested the schools concerned to provide explanation and commitment to meet the relevant requirements within a specified time, and all such schools have followed up accordingly.

(i) Referring to Annex 7 of your reply dated 31 December 2015, which contains information on schools which ceased operation under the Consolidated Policy since 2003/2004 school year, please provide the following information relating to school number 22 and 24:

- i) current use of the VSP;**
- ii) whether the VSP is on government land or private land;**
- iii) if the VSP is on private land, whether there was a cessation/diminution of user clause in the land lease such that the Government has the right to re-enter the site; and**
- iv) whether physical possession of the VSP has been delivered to the Government; if not, the reasons. What actions will be taken by the Lands Department for taking back the site?**

21. Regarding school number 22 and 24 in Annex 7 of EDB's reply on 31 December 2015, EDB had "returned" the premises to LandsD in earlier years under the established mechanism. As the Public Accounts Committee Secretariat has separately written to LandsD, such information will be provided by LandsD.

Not attached

(j) the reasons for the substantial increase of management cost of VSP from \$868,000 in 2014 to \$1,054,000 in 2015 while the number of VSP had decreased in the same period.

22. The number of VSP under EDB's management contracts in 2015 had decreased by one and the management cost had increased by \$186,000 when compared to 2014. Apart from the increase in service charges under the new contracts, we have been arranging 24-hour property management for a VSP which was classified as a Grade 1 Historic Building since July 2014, i.e. six-month 24-hour management services were provided to this VSP in 2014, and for 2015, EDB needed to provide 24-hour property management services to this VSP for the entire year (12 months). As a result, the related management cost had increased.