社會福利署
Social Welfare Department

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APPENDIX 6

5 January 2018

Mr Anthony CHU
Clerk to the Public Accounts Committee
Legislative Council Complex
1 Legislative Council Road
Central
Hong Kong

Dear Mr CHU,

Public Accounts Committee
Consideration of Chapter 1 of the Director of Audit's Report No. 69
Administration of lump sum grants by the Social Welfare Department

Thank you for your letter of 13 December 2017 to the Director of Social Welfare. I have been authorised to reply to the issues raised in your letter relating to the subject matter.

Preamble

The Lump Sum Grant Subvention System (LSGSS) was introduced in 2001, with 165 non-governmental organisations (NGOs) currently subvented under the LSGSS. The main features and operation of the LSGSS have been outlined in paragraphs 1.8 to 1.19 of the Director of Audit's Report No. 69 (the Audit Report). Our reply to the specific issues raised in your letter is as follows: –

(1) Lump Sum Grant Manual

The Lump Sum Grant (LSG) Manual (October 2016), attached herewith as **Annex 1**, has been uploaded onto the website of the Social Welfare Department (SWD) at the following URL:

https://www.swd.gov.hk/en/index/site_ngo/page_subventions/sub_lsgmanual/

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***Note by Clerk, PAC:** Annex 1 not attached.*

(2) Calculation Method and Basis of Provision of LSG Subvention

LSG subvention is calculated on the basis of the provisions covered by the traditional subvention system (including recognised staff salaries and recognised Other Charges (OC), minus the recognised fee income). The relevant calculation and adjustment method has been detailed in paragraphs 2.4 to 2.10 of the LSG Manual and paragraph 1.12 of the Audit Report.

Calculation of OC Provisions

OC broadly cover operating expenses such as administrative expenses, utilities expenses, stores and equipment, programme expenses, insurance and meals, etc. The benchmark under which OC provisions are calculated by the SWD is determined on the following basis:

- the level of provisions for the service before the introduction of the LSGSS;
- reference to operating expenses of identical or similar services;
- additional provisions required to meet the special needs of individual service units (e.g. repair/maintenance of elevators, slopes, sewage treatment facilities, etc.);
- reference to service experience drawn from pilot schemes; or
- views from the welfare sector.

Prior to 2012-13, OC provisions were adjusted annually according to price movements of "other purchases of goods and services" made by the Government. Having collected the views of the welfare sector and obtained the endorsement of the Lump Sum Grant Steering Committee (LSGSC), the SWD adopted changes to the Composite Consumer Price Index as the basis of annual adjustments to OC provisions from 2012-13 onwards (please refer to paragraph 2.12 of the LSG Manual).

Adjustment of LSG Subvention

The Government has been reviewing the service needs and views from the welfare sector from time to time with a view to adjusting the LSG subvention. Subsidies and supportive measures have been provided to NGOs on many occasions in the past to help them cater for different situations and needs. For example, since 2014-15, the Government provided NGOs with an additional annual recurrent funding for the enhancement of the LSGSS, in order to strengthen central administrative and supervisory support, make additional allocation to OC, and assist NGOs to recruit and retain paramedical staff more effectively or to hire paramedical services for provision of services subsidised by the SWD; and in 2017-18, the Government increased OC provisions to cover the electricity expenses incurred by provision of full air-conditioning in all subvented residential care service units. The many funding adjustments in the past involved additional recurrent funding of over $800 million and additional non-recurrent funding of over $4.3 billion in total.

Under paragraphs 2.14 and 2.15 of the LSG Manual, NGOs have the flexibility to deploy their LSG for purposes including staff expenses and other operating expenses. For example, resources may be deployed from OC to salaries and vice versa to meet operational needs. Moreover, LSG-subvented NGOs were notified by the SWD in writing on 22 May 2009 that in exceptional and justifiable cases, applications may be made by NGOs to advance OC provision of the year. To date, no such applications have been received from NGOs.

(3) The Additional Recurrent Funding of $470 Million in 2014-15

The SWD from time to time collects views from the welfare sector on the enhancement of LSGSS. Starting from 2014-15, the Government has allocated additional recurrent funding of $470 million to NGOs, with details as follows:

(i) Central Administrative Support (Additional recurrent funding of about $160 million)

In the light of the changing circumstances in social and service development, the additional funding for central administrative support aimed at assisting all subvented NGOs to enhance their human resources and financial management, improve their administrative efficiency by applying information technology, strengthen administrative support to cope with new statutory requirements and those of Government guidelines (e.g. the Best Practice Manual (BPM) implemented by phases in 2014), and strengthen internal control, etc.;

(ii) Supervisory Support (Additional recurrent funding of about $130 million)

The supervisory support under the funding to NGOs aimed at providing frontline social workers with supervision and training, guiding instructions on the handling of more complicated cases (e.g. cases involving risks, violence or attracting media concern), as well as service collaboration with other professionals, Government departments and relevant stakeholders in the provision of services for enhancing the quality of frontline services. The additional funding would result in a creation of over 150 supervisory positions equivalent to the social work officer rank in NGOs. Supervisory staff with professional experience could be employed by NGOs using the additional funding to provide training and supervisory support for frontline workers in order to enhance the quality of frontline services, as well as creating more promotional opportunities for experienced staff. This improvement measure would raise the overall supervisory support to 100%, and such funding for 100% supervisory support would be included in new services to be launched in the future.

(iii) Paramedical Support (Additional recurrent funding of about $130 million)

The Lump Sum Grant Independent Review Committee (IRC) published the Review Report on the LSGSS in December 2008. It recognised that those NGOs having the need to employ paramedical staff faced great difficulty in catching up with their rising pay trends, and that NGOs must offer better remuneration packages in order to attract and retain these staff. Since 2009, the SWD has channelled additional funding from the Lotteries Fund to organisations in need under a pilot scheme, which covered a total of 15 ranks including nurses, physiologists, occupational therapists, speech therapists and clinical psychologists, to assist subvented NGOs in providing additional salaries and Mandatory Provident Fund contributions for paramedical staff, or hiring of paramedical services for provision of services subsidised by the SWD. The initiative has benefited 75 organisations, involving over 3 000 positions. The provision of additional recurrent funding of $130 million starting from 2014-15 was an extended measure of the pilot scheme to regularise the initiative for organisations to formulate long-term plans with ease, and make flexible adjustment to the salaries of paramedical staff, so as to meet their specific service and developmental needs. Such additional funding for paramedical service support would also be included in new services to be launched in the future.

(iv) OC (Additional recurrent funding of about $48 million)

The additional funding aimed at supporting NGOs to cope with inflation, especially in areas such as food prices and insurance for employees.

(4) Refund of LSG Reserve

NGOs receiving LSG subvention are required to refund to the Government in the following year the amount above the cap for their LSG Reserves if the level of their reserves (excluding Provident Fund (PF) Reserve and the LSG Reserve kept in a holding account as permitted earlier) exceeds 25% of the operating expenditure (excluding PF expenditure) for the year. Details of the refund over the past 5 years are set out as follows –

Year	Number of NGOs[1]	Total amount of reserve refunded / to be refunded[1] ($ million)
2011-12	23	16.6
2012-13	17	10.8
2013-14	17	12.7
2014-15	30	50.9
2015-16	34	41.6

(5) Requirement for Keeping Surplus Funds in LSG Reserve (including those kept in the holding account) and PF Reserve

According to paragraph 2.32 of the LSG Manual, an amount of cash equivalent to the LSG Reserve (including that kept in the holding account) must be kept in a separate interest-bearing account with a bank licensed in Hong Kong. NGOs may invest surplus funds in their LSG Reserves in form of bank deposits, bonds or certificates of deposit in Hong Kong dollars based on the investment framework specified in paragraph 2.33 of the LSG Manual. It is stipulated in paragraph 2.40(a) of the LSG Manual that PF Reserves can only be used for PF commitments in the future. If necessary, the SWD will request NGOs to explain how LSG Reserve and PF Reserve are kept.

(6) Use of PF Reserve and Responsibility of NGOs

The LSG Manual requires the following: –

(i) NGOs should be held directly accountable to the SWD and the public for the proper and prudent use of public funds. It is the responsibility of NGOs' governing boards and management to maintain proper control of the LSG and ensure that the use of the LSG meets the requirements and objectives set out in the Funding and Service Agreements (FSAs), and complies with the LSG Manual (paragraph 4.9 of the LSG Manual)[2].

[1] The number of NGOs and the amount of reserve that should be refunded to the Government have been calculated based on a preliminary review conducted by the SWD on the Annual Financial Reports (AFRs) submitted by individual NGOs. The data may be amended subject to subsequent supplemental information.

[2] In addition to the LSG Manual, NGOs are also required to comply with the requirements as stipulated in LSG Circulars, relevant letters/notifications and the Level One guidelines in the BPM.

(ii) NGOs are required to ensure that the LSG is spent in the most cost-effective manner and for intended purposes. NGOs should have clear Human Resource Management policies and programmes in respect of pay and reward systems (paragraph 5.9 of the LSG Manual).

According to the Level One guidelines of BPM[3]: –

(i) NGOs' governing boards/management committees are required to discuss in their meeting(s), at least once a year, how to manage and utilise LSG Reserve and PF Reserve, and the discussion has to be put on record.

(ii) NGOs are required to have documents setting out the policies and procedures on managing and monitoring LSG Reserve and PF Reserve, and to make known to staff such procedures.

(iii) NGOs are required to report on the management and utilisation of the PF Reserve in the past year, and provide a brief plan on how the reserve is going to be used in the future at their annual general meetings/in their annual reports. NGOs are also required to, through suitable channels, disseminate to staff information about utilisation of PF Reserve in the past year and provide a brief plan on how the reserve is going to be used in the future, with a view to facilitating the proper use of resources and enhancing transparency.

As part of their own governance and human resource deployment, NGOs may adjust the percentage of PF contributions for non-Snapshot Staff and disburse special contributions to reward staff for their good performance. The staff will benefit if NGOs can make proper use of PF Reserve by increasing the percentage of contributions or disbursing one-off contributions to reward non-Snapshot Staff for their good performance. Meanwhile, the SWD reviews relevant policies from time to time.

(7) Benchmark for PF Provisions

In order to help NGOs join the LSGSS and ensure that they have adequate funds to honour their contractual commitment to "Snapshot Staff" (i.e. serving staff as at 1 April 2000) in terms of PF contribution rates (with the employer's contribution rate at 5%, 10% or 15% depending on the length of service), PF provisions are calculated by the Government on an actual basis. For "non-Snapshot Staff" (those employed after 1 April 2000), PF provisions are calculated at 6.8% of the mid-point salaries of the recognised notional staff establishment, a rate determined by the

[3] Use of PF Reserve for non-Snapshot Staff (BPM item 4) and Status of PF Reserve (BPM item 5) are part of the Level One guidelines, which are expected to be followed by NGOs unless there are strong justifications not to do so.

Government on the basis of the average PF contribution rate of the sector at the time, so that NGOs may draw up their own PF policy as appropriate in accordance with their human resources policy and financial position.

The Government embarked in November 2017 on a review on the enhancement of the LSGSS. One of the areas under the proposed scope of the review is to examine the benchmark for PF provisions.

(8) Statistics on PF

The SWD does not collect information on the participation of NGOs in various PF schemes.

Based on the Annual Financial Reports (AFRs) of NGOs for 2015-16, their total expenditures on PF contribution for Snapshot and non-Snapshot Staff were about $390 million and $450 million respectively.

(9) Use of LSG Reserve

(a) Growth of LSG Reserve

As explained in our reply for item (6) above, NGOs must comply with the requirements in the LSG Manual and the BPM relating to the use of LSG Reserve. Review of AFRs and audited annual financial statements of an NGO as a whole (both submitted by the NGO) and on-site inspections are conducted by the SWD to review whether requirements with respect to the use of LSG subvention and reserve are met. All NGOs with an LSG Reserve of above $100 million as at 31 March 2016 (shown in Table 5 of the Audit Report) were large NGOs. Given that they provide more subvented services, the level of reserves retained would be relatively higher. The SWD will follow up if their LSG Reserve exceeds 25% of their operating expenditure for the year.

(b) BPM Requirements

As explained in our reply for item (6) above regarding the use of PF Reserve, the BPM sets out the requirements[4] on the management and use of LSG Reserve. Based on actual circumstances and development strategies, NGOs are required to decide on their own how LSG Reserve is to be utilised in different areas. NGOs' governing boards/management committees are required to discuss in their meeting(s) at least once a year how to manage and utilise the reserve, and to consider during the discussion how to maximise the use of the reserve for the NGOs' development, and

[4] Management of the LSG Reserve (Item 1 of the BPM) and Status of the LSG Reserve (Item 3 of the BPM) are both Level One guidelines, i.e. those that NGOs are expected to follow unless there are strong justifications not to do so.

the discussion has to be put on record. NGOs are required to have documents setting out the policies and procedures on managing and monitoring their LSG Reserves, and to make known to the staff such procedures. Public accountability of NGOs is strengthened through enhancing transparency and releasing information to the stakeholders. Based on the principle of corporate governance, NGOs are not required under the BPM to submit to the SWD their plans on how to utilise the reserve.

(c) Implementation of the BPM

NGOs are reminded by the SWD on a yearly basis, by email with the BPM attached for their reference, to submit their BPM self-assessment checklists. The details and requirements for implementation are set out in the BPM with stipulation of follow-up if an NGO does not comply with Level One guidelines in the workflow for implementation, including if the NGOs persistently fail to comply with Level One guidelines, the case will be submitted to the LSGSC for discussion and recommendation for follow-up action.

Self-assessment checklists for 2016-17, which report the implementation of the BPM as at 31 March 2017, have been submitted by the NGOs before 31 October 2017. According to the self-assessment checklists, the implementation of Level One guidelines is as follows: –

- "Maximised Use of LSG Reserve" has been implemented by 158 NGOs (96%);
- "Status of LSG Reserve" has been implemented by 161 NGOs (98%);
- "Use of PF Reserve" has been implemented by 153 NGOs (93%);
- "Status of PF Reserve" has been implemented by 162 NGOs (98%);
- "Salary Adjustment" has been implemented by 163 NGOs (99%);
- "Composition, Duties and Responsibilities on Handling Complaints at Different Levels" has been implemented by 163 NGOs (99%); and
- "NGOs' Policies and Procedures on Complaints Handling" has been implemented by 163 NGOs (99%).

As NGOs were allowed to complete the implementation of Level One guidelines by 30 June 2017, the SWD has liaised with the NGOs after their submission of self-assessment checklists. Initial information suggests that all NGOs are capable of implementing all Level One guidelines. As such, it is not necessary for any NGO to apply for exemption.

(d) The Use of LSG Reserve for Incentive Payments

Under the LSGSS, NGOs may determine the salaries/remuneration and fringe benefits for their staff with reference to factors such as their respective human resources policies and financial positions, with the premise that service quality can be maintained and regulations stipulated in the FSAs can be complied with. Apart from using the resources as the basic salaries, NGOs may reward and retain their staff by

means of providing incentive payments or cash allowance as part of employees' remuneration packages.

As mentioned in item (6) above, while NGOs are allowed to flexibly deploy LSG subventions (including LSG Reserve), they have to comply with the following requirements: –

(i) NGOs should ensure that the organisations are directly accountable to the SWD and the public for the proper and prudent use of public funds. It is the responsibility of NGOs' governing boards and management to maintain proper control of the LSG, ensure that the use of the LSG meets the requirements and objectives set out in the FSAs and complies with the conditions spelt out in the LSG Manual, and spend the LSG for the intended purposes in the most cost-effective manner.

(ii) NGOs should have clear Human Resource Management policies and programmes in respect of pay and reward systems.

(iii) According to the requirements set out in paragraphs 4.14 to 4.19 in the LSG Manual, NGOs should disclose their AFRs and their Review Reports on Remuneration Packages for Staff in the Top Three Tiers (RRs) (subject to fulfillment of the conditions set out in paragraph 4.17 in the LSG Manual) through specified channels for public scrutiny. Since June 2017, the SWD has either uploaded the AFRs of NGOs and the RRs (if applicable) on the SWD's website[5], or provided links to the webpages of the NGOs. If the increments of the remuneration packages for staff in the top three tiers (incentive payments or cash allowance inclusive) exceed appropriate levels, the SWD will require an explanation from the NGOs concerned or even arrange a meeting with their governing boards/management committees to request the NGOs to make adjustment.

In addition, for requirements relating to the management of the LSG and the status of Reserve set out in the BPM (both are Level One guidelines), please refer to our response in item 9(b) above.

With enhanced transparency under the aforesaid requirements and guidelines, coupled with NGOs' accountability system to the SWD and the public, it is believed that effective monitoring of the use of the LSG and the LSG Reserve for intended purposes can be achieved.

[5] URL: https://www.swd.gov.hk/en/index/site_ngo/page_AFRandRR/

(10) Operating Deficits of 14 NGOs and the Depletion of LSG Reserves for 8 NGOs

(a) Reasons for NGOs to Incur Huge or Persistent LSG Operating Deficits and Follow-up Actions

Reasons for NGOs to run huge or persistent operating deficits in certain years vary. These include, for instance, the need to allocate funding to cover non-recurrent expenses under special or emergency circumstances, a tide-over period for services or manpower (e.g. more employees' salaries have exceeded the mid-point salary), staff wastage lower than the anticipated level, recruiting or retaining staff by higher salaries with reference to the market situation, etc. According to the information provided by the NGOs involved, it is generally due to the aforesaid reasons that they incurred LSG operating deficits for a particular year or consecutive years, and they have strategically used LSG Reserves/NGOs' overall reserves to meet the needs of subvented services and maintain service quality. The NGOs concerned have considerable levels of LSG Reserve (including the balances in their holding accounts) or overall reserve.

To determine that NGOs can provide subvented services as requested in a sustainable and stable manner under sound financial position, the SWD will continue to review their financial positions regularly based on the AFRs and annual audited financial statements submitted by NGOs, and ascertain whether or not any improvement has been made for persistent deficits with reasons, and follow up on a need basis.

Please refer to our response to item 10(c) for the follow-up actions of the SWD.

(b) Any Impact of LSG Deficits on Service Performance

According to the information obtained by the SWD, the service performance of the 14 NGOs, which had incurred LSG operating deficits for three consecutive years from 2013-14 to 2015-16 as indicated in Table 7 and Table 8 of the Audit Report, was not affected by the operating deficits.

The SWD monitors the service performance of all subvented NGOs through the Service Performance Monitoring System (SPMS). Under the SPMS, the SWD formulates FSAs with subvented NGOs to determine their service performance standards and assess their service performance. Subvented NGOs are required to manage their service units properly to ensure that the subvented services provided comply with the requirements and performance standards as laid down in the FSAs, including the Essential Service Requirements, Output/Outcome Standards and Service Quality Standards.

Apart from requiring NGOs' periodic submission of quarterly statistical reports and annual self-assessment reports, the SWD will also conduct visits to all

subvented NGOs in every monitoring cycle (one cycle every three years) and conduct review visits or surprise visits to selected subvented service units in order to assess and monitor their service performance. Besides, to review the service quality, the SWD will conduct on-site assessment at service units operating new services, and service units with alleged or suspected problematic performance. For any non-compliance identified, the NGOs concerned will be required to submit improvement plans, and the progress of which will be monitored by the SWD.

(c) Measures for Monitoring the Financial Soundness of NGOs with Operating Deficits

The SWD has all along been monitoring NGOs' compliance with the relevant requirements stipulated in the LSG Manual and the BPM, and will continue to conduct regular reviews on the AFRs and annual audited financial statements submitted by NGOs to ascertain their financial soundness.

As shown in Table 7 and Table 8 in the Audit Report, the 14 NGOs which had incurred operating deficits for three consecutive years from 2013-14 to 2015-16 still had considerable amounts of LSG Reserve (including the holding account balances) or overall reserve. These situations could be properly dealt with by using LSG Reserves, and NGOs should formulate their own governance and accountability frameworks to determine the use of LSG Reserves (paragraphs 2.37 to 2.41 of the LSG Manual).

If NGOs anticipate financial difficulty, their boards should have thorough deliberation and inform the SWD in advance, so that remedial measures can be taken as appropriate before the NGOs exhaust their reserves (paragraph 3.20 of the LSG Manual).

If NGOs are incurring persistent and huge deficits or mobilising a large sum of reserves in the operation of LSG-subvented services, the SWD will, in the light of the circumstances, take different actions, such as: –

(i) conduct interviews with the boards/management committees to ascertain the underlying reasons, including the overall income in addition to subventions from the SWD; give advice, conduct reviews and request NGOs to submit financial reports, financial projections and follow-up plans, where necessary, in order for NGOs to continue the provision of subvented services as required while maintaining a healthy financial position;

(ii) The SWD will also consider submitting the cases to the LSGSC for deliberation and recommendation on follow-up plans. Based on the circumstances of the cases and the recommendations from the LSGSC, the SWD will determine the follow-up actions, such as issuing warning letters to NGOs, and conducting interviews with NGOs' boards for

explanations. If NGOs persistently fail to make improvement, the SWD does not rule out the possibility of imposing penalties on the advice of the LSGSC; and

(iii) The SWD has always been encouraging NGOs to conduct actuarial or relevant financial studies using the Social Welfare Development Fund. So far, 11 NGOs have received funding allocations to conduct actuarial studies and relevant study projects. NGOs provided with funding are required to report on the progress and effectiveness of their projects on an annual basis. Upon completion of the projects, the SWD will collect NGOs' experience gained in conducting the actuarial studies, and will actively encourage these NGOs to share their findings with other NGOs.

The Government embarked in November 2017 on a review on the enhancement of the LSGSS. One of the areas under the proposed scope of the review is to examine NGOs' financial positions and planning so that services will be provided through sustainable and effective use of resources.

(d) Latest Information on NGOs' Deficits

The LSG surplus/(deficit) and overall reserve for 2016-17 of the 14 NGOs which had incurred LSG deficits for three consecutive years from 2013-14 to 2015-16 were as follows: –

NGOs	**NGOs' LSG surplus/(deficit) for 2016-17[6] ($)**	**Overall Reserve[7] of NGOs for 2016-17 ($)**
NGO 1	(2,876,193)	29,938,812
NGO 2	546,348	31,983,328
NGO 3	(38,368)	9,845,764
NGO 4	(1,116,905)	55,276,356
NGO 5	(855,793)	282,465,489
NGO 6	(5,969)	15,638,326
NGO 7	(65,805)	14,803,437
NGO 8	290,260	6,032,418
NGO K	(7,040,982)	449,637,576
NGO 9	(8,632,250)	96,712,042
NGO 10	(8,674,653)	174,297,192
NGO 11	(2,220,739)	3,603,930,914
NGO 12	644,183	6,755,797
NGO 13	(110,319)	2,485,369

[6] The figures above are provided by the NGOs in their 2016-17 AFRs. They are subject to further review by the SWD.

[7] Overall reserve as reported in Audited Financial Statements for 2016-17 submitted by the NGOs listed.

Please refer to our response to item 10(c) above for the follow-up actions of the SWD.

(e) Staff in NGO K Receiving Annual Emoluments of over $500,000

Based on the information provided by NGO K, a number of staff members in NGO K received an annual emolument ranging from $500,000 to $600,000 between 2014-15 and 2015-16 as a result of reference to civil service salary adjustments and yearly increments. During this period, the NGO did not employ significantly more staff with annual emoluments exceeding $500,000. As indicated by the relevant information, the increase in expenditure on staff emoluments may be one of the reasons for its operating deficits.

Staff with annual emoluments exceeding $500,000 made up 17% of all subvented staff in NGO K in 2014-15, and 27% in 2015-16. The expenditure on emoluments for staff with annual emoluments exceeding $500,000, as a percentage of the NGO's operating income from the Labour and Welfare Bureau (LWB) and the SWD, was about 37% in 2014-15 and 52% in 2015-16.

Normally, about 80% of NGOs' recurrent expenditure would be on the personal emoluments of staff. This proportion may vary in respect of different NGOs for various reasons, such as seniority of staff and types of services provided by NGOs. If the services operated by an NGO are in high demand for staff, the proportion of personal emoluments to recurrent expenditure will also be higher. In the case of NGO K, its staff emoluments accounting for about 70% or 72% of the total expenditure. This is not a particularly high ratio.

(11) Reasons for Delay in the Implementation of the 2003 Memorandum

Prior to the publication of the 2003 Memorandum by the Administration Wing, the SWD had agreed with the welfare sector an elaborate set of rules and guidelines for the subvention in respect of NGOs funded on the LSGSS established in 2001. They were documented in the LSG Manual then to the effect that NGOs were required to disclose expenditures in personal emoluments in their AFRs by the number of posts, and six bands of every additional $100,000 for annual remuneration packages exceeding $500,000, and their AFRs. Besides, during accounting inspections from 2001 to 2012, the Finance Branch of the SWD also collected information on the personal emoluments of the top three highest paid staff members of the service units or central administration offices under inspection.

When the Memorandum was promulgated in 2003, the LSGSS had just been introduced for a short period of time. Taking into account the need to amend the LSG Manual in order to implement the guidelines as set out in the Memorandum, and that any amendment to the LSG Manual must be based on a consensus between the SWD and the welfare sector because the Manual was finalised after extensive

consultation with the welfare sector, the SWD did not implement the guidelines in the Memorandum immediately.

In 2008, the Government appointed the IRC to review the LSGSS. The IRC made 36 recommendations in the Review Report on the LSGSS[8], of which recommendation no. 29 stated that the SWD should consult the NGOs with a view to implementing the Government guidelines on the monitoring of remunerations of senior executives in subvented bodies (i.e. the relevant guidelines in the 2003 Memorandum). Having considered the consensus built in the process of the review, it was discussed and agreed in a meeting of the LSGSC in January 2010 that the SWD should, in accordance with the guidelines as set out in the Memorandum, inform subvented NGOs of the relevant arrangement in writing and request them to submit their RRs for 2009-10.

Under the LSGSS, the accountability of NGOs is specified in the LSG Manual and the requirements are set out regarding the transparency of NGOs in their use of public funds and their public accountability. It includes what is mentioned in item (9)(d) above that NGOs should disclose to the public their AFRs containing information of expenditure in personal emoluments, and that the SWD should collect information on the personal emoluments of staff in the top three tiers. The public can gain access to the relevant information on the SWD website.

The SWD has all along clearly specified in the LSG Manual the requirements on accountability and monitoring by the SWD. As for the guidelines in the Memorandum, the SWD was of the view that, after the completion of the work of the IRC, it was still necessary to reach a consensus (over the criteria, method of assessment and channels of disclosure, etc.) with more than 160 NGOs of varied scales before actual implementation.

(12) <u>The SWD Sought Advice from the Administration Wing</u>

In response to the concerns and questions raised by Members of the Legislative Council in 2013 about how the Government would monitor the remuneration of senior executives of subvented bodies, the SWD saw the need to seek advice on the consistency among various Government bureaux/departments (B/Ds) in administering the guidelines in the 2003 Memorandum and on other relevant matters, including privacy of the individual, public interest, whether the SWD and other B/Ds had a common understanding of the exemption criteria in relation to the 50% threshold, and how B/Ds should make their own arrangements under this exemption criteria. In this connection, the SWD consulted the Administration Wing in writing in June 2013.

[8] URL: https://www.swd.gov.hk/doc/ngo/(5)-Report%20eng.pdf

The communication processes between the SWD, the Administration Wing and the Financial Services and the Treasury Bureau (FSTB) in 2013 are listed chronologically in the table below:

Date	Content
24 June 2013	The SWD consulted the Administration Wing via a memo.
12 July 2013	The SWD followed up with the Administration Wing on the phone.
19 July 2013	The Administration Wing replied by email. In response to the clarification sought by the SWD on whether the exemption criteria it had adopted were in line with the guidelines as stated in the Memorandum, the Administration Wing asked the SWD to seek advice from the FSTB.
31 July 2013	The SWD staff reported to his senior officers by e-mail that the FSTB was contacted for enquiry about the 50% threshold. The FSTB advised that it would need more time to consider the matter.

In general, the content of verbal discussions between the SWD and other B/Ds is recorded or followed up in writing according to actual circumstances and needs.

In the light of the concerns of the public and Members of the Legislative Council at the end of 2016 about how the Government would monitor the remuneration of senior executives of subvented bodies, the SWD sought clarification from the Administration Wing by email again in January 2017 on the basis for determining the 50% threshold in relation to the implementation of the guidelines in the 2003 Memorandum. There followed a series of deliberations via e-mail exchanges and meetings among the SWD, the Administration Wing and the FSTB. In May 2017, the Administration Wing conveyed the advice on the method of determining the 50% threshold to the SWD, i.e. Directors of Bureaux should look at the percentages of the operating income relating to the subvented bodies that receive subventions from the B/D for its responsible service/policy area, and determine whether those subventions account for more than 50% of the operating income of the subvented bodies in that specific service/policy area. The Administration Wing indicated that they would carry out a survey to find out the current practice and opinions of the implementation of the guidelines from all B/Ds to confirm if the Memorandum needs to be updated, or whether some of the execution details shall be clarified. After learning of the advice of the Administration Wing, the LWB and the SWD have been in discussion on the follow-up actions. Taking into account the time needed to discuss the arrangement with a large number of NGOs and any possible

updating/revision on the guidelines arising from the survey conducted by the Administration Wing on the implementation of the guidelines, the SWD expects that the calculation method of the 50% threshold in accordance with the Administration Wing's advice could be implemented for reporting in the 4th quarter of 2018 to reflect NGOs' positions in 2017-18.

(13) <u>Calculation Method of the 50% Threshold</u>

(a) <u>SWD's Understanding of the 50% Threshold</u>

The determination of the 50% threshold is provided for in paragraphs 6(a) and 14 of the Memorandum issued by the Administration Wing in 2003 (**Annex 2**), as well as paragraph 7(a) of a relevant Legislative Council Brief dated 25 February 2003 (Ref.: CSO/ADMCR2/1136/01) (**Annex 3**) "*all subvented bodies which receive more than 50% of their operating income from the Government should review their senior staff's number, ranking and remuneration*" and paragraph 8 "*for a multi-disciplinary organisation providing services which fall under programme areas of different Directors of Bureaux, a Director of Bureau would be responsible for that part of the review report covering those senior staff who operate services under his/her policy purview*".

On the basis of the above provisions, it was the SWD's understanding at that time that to determine whether the 50% threshold was met for an NGO, the NGO's operating income received from the SWD should be divided by the operating income of the NGO as a whole.

(b) <u>Reasons for Consulting the Administration Wing and the FSTB</u>

Please refer to our reply to item (12) above.

(c) <u>Enhancing Public Accountability</u>

As mentioned in item (13)(a), the guidelines in the Memorandum were implemented by the SWD on the basis of the SWD's understanding of the 50% threshold at that time. Please refer to our reply for item (12) above for the SWD's follow-up in this regard.

The SWD has all along attached importance to the transparency and public accountability of NGOs in the use of public money. NGOs are required under relevant guidelines to disclose their AFRs and RRs (where applicable) through designated channels. Moreover, the NGOs' reports have been uploaded onto the SWD's website from June 2017 onwards to facilitate public access. In addition, the Task Force for Review on Enhancement of LSGSS appointed by the LWB and chaired by the Director of Social Welfare is planning to examine, among other areas in the

scope of the review, how to increase the transparency in the management of subvented NGOs with a view to further enhancing their public accountability.

(d) Difficulties to be Encountered by NGOs using the Administration Wing's Calculation Method of the 50% Threshold

From an audited financial statement submitted by an NGO, the SWD can only collect information about the income of the NGO as a whole and the total subvention from the SWD. There is no figure showing its total income in the welfare purview, and the NGO's income is not categorised according to source or programme area on the financial statement. At present, the presentation of an annual financial statement of an NGO as a whole as audited by a certified public accountant registered under the Professional Accountants Ordinance (Cap. 50) is not even standardised. As such, if the calculation method of the 50% threshold is revised, NGOs will be required to adapt and change the way in which their income is reported.

Moreover, with the development of diversified services and the growth of collaboration projects (such as medical-social collaboration projects), many NGOs are involved in the operation of services beyond the welfare purview (such as healthcare and education services) while receiving sums of money from different policy bureaux, government departments and the public. How each sum should be defined as belonging to the welfare purview or otherwise will affect whether an NGO is exempted from submitting a remuneration review report.

(14) Follow-up on Inadequate Internal Control by NGOs

As far as advice on internal control is concerned, it is stated in paragraph 3.23 of the LSG Manual that NGOs should always ensure that adequate internal controls are in place having regard to the nature and size of their organisation and the services provided. Advice on internal control procedures in respect of important financial activities has been provided by the SWD (e.g. paid invoices not being stamped with the word "PAID", late preparation of bank reconciliation statements, incomplete or incorrect fixed asset registers) as part of the subvention inspection process. The SWD will require NGOs found to have internal control problems to take rectification actions and submit written replies to the SWD as soon as possible (paragraph 4.10 of the LSG Manual). The SWD will remind NGOs' management annually in writing of the importance of sound internal control. The SWD will follow up on NGOs with inadequate internal control as appropriate. Moreover, the SWD will take into account various risk factors including the amount of subventions, number of service units, past performance on the compliance with the SWD's subvention guidelines, NGOs' financial position, etc. in formulating plans for accounting inspections.

(15) <u>Cost Apportionment with NGO's Head Office</u>

The 3 NGOs held diverse views as to the data analysis and conclusions of the Audit Commission. According to NGO I, their estimations showed that income from self-financing activities in 2015-16 was far lower than the figure in Table 14 of the Audit Report; NGO J opined that the conclusion of self-financing activities having been subsidised by the LSG was too simplistic without regard to the practice of resource sharing from a more macroscopic perspective; NGO K suggested that it had always been their practice to exclude head office expenses (including staff emoluments and other expenses) for individual non-FSA activities, i.e. such expenses have been excluded from the AFRs. The SWD will study the Audit Report and the views of the NGOs, and continue to discuss with the NGOs, in order to sort out the issues of apportioning overheads between FSA activities and non-FSA activities with a view to agreeing on a set of fair and effective criteria for cost apportionment. The SWD will continue to discuss the issue of cost apportionment with the sector, and expect to complete the relevant follow-up this year.

(16) <u>Case 1 and Case 2</u>

According to paragraph 3.3 of the LSG Manual, NGOs must ensure that proper books of account and other accounting records are kept for all transactions, separately identified into FSA activities and support services (including central administration and supervisory support), and non-FSA activities. It is also stipulated in paragraph 2.37 of the LSG Manual that LSG and LSG Reserve are intended for operating expenditure for FSA or FSA related activities.

The SWD has a mechanism in place to review an NGO's AFR and audited annual financial statement of the NGO as a whole and conduct LSG subvention inspection, to review whether the use of subvention complies with the SWD's requirements. The SWD will require NGO found to be non-compliant to take rectification action and submit a written reply to the SWD as soon as possible.

NGO H and G did not inform the SWD of the basis adopted for the apportionment of operating expenditure between FSA activities and non-FSA activities.

In Case 2, the full-year expenditure on emolument of NGO G's Chief Executive Officer in 2015-16 (about $1.57 million) was about 1.2% of the NGO's operating income from the LWB and the SWD for the year.

The SWD will remind NGOs annually in writing of the need to properly apportion costs between FSA activities and non-FSA activities, and to provide advice to NGOs where required. Moreover, guidelines will be prepared by the SWD for their reference and use.

(17) <u>Cost Apportionment</u>

NGOs from time to time will consult the SWD on the cost apportionment between FSA activities and non-FSA activities. The SWD will offer advice on a case-by-case basis and, where necessary, hold meetings with the relevant NGOs to clarify the principles and issues at stake and discuss options for cost apportionment. The SWD will continue to consult the sector on the matter of cost apportionment with a view to providing further guidelines.

Should you have any enquiries, please contact the undersigned.

Yours sincerely,

(KOK Che Leung)
for Director of Social Welfare

c.c. Secretary for Labour and Welfare (Attn: Mr Kenneth CHENG)
Secretary for Financial Services and the Treasury (Attn: Ms Kinnie WONG)
Director of Administration (Attn: Ms Subrina CHOW)
Director of Audit (Attn: Mr Andrew CHANG)

Annex 2

CIRCULAR MEMORANDUM

From	Director of Administration	*To*	Directors of Bureaux and Permanent Secretaries
Ref.	CSO/ADM CR 2/1136/01	*(Attn:*	*)*
Tel.	2810 3838	*Your Ref.*	
Fax	2877 0802	*dated*	*Fax*
Date	28 March 2003	*Total Pages*	7+3+2

Internal Review of Remunerations of Senior Executives of Government-funded Bodies and New Guidelines Arising from the Review

This circular memorandum informs Directors of Bureaux of the outcome of the above review, and promulgates new guidelines and associated changes for the control and monitoring of remuneration practices in subvented bodies by Directors of Bureaux and their Controlling Officers. Relevant Directors of Bureaux are invited to take follow up actions.

Policy Decision

2. At the meeting of the Executive Council on 25 February 2003, the Council took note of:

(a) the findings of the review of remunerations of the senior executives of 20 selected subvented bodies; and

(b) a set of new guidelines for the effective control and monitoring of the structure, ranking and remunerations of the top three-tier executives in subvented bodies.

3. The Council ADVISED and the Chief Executive ORDERED that with the implementation of the new guidelines for the effective control and monitoring of the structure, ranking and remuneration for the top three tiers executives in subvented bodies and to avoid micro-managing remuneration practices of subvented bodies, the Government should do away with the subvention guideline premised upon the “no better than” principle.

Findings of Review on Selected Bodies

4. In January 2002, the Government initiated an internal review of remunerations of senior executives of government-funded bodies. A Steering Committee convened by the Chief Secretary for Administration was set up to oversee the review. The Steering Committee eventually selected 20 subvented bodies for detailed examination.

5. The Steering Committee concluded the review in December 2002. According to the review report, there should be changes to or further reviews of the remuneration practices of the following six organisations (excluding the Hong Kong Arts Development Council for which follow-up action has been completed), namely –

Vocational Training Council
Employees Retraining Board
Equal Opportunities Commission
Hong Kong Sports Development Board
Hong Kong Philharmonic Society Ltd
Hospital Authority

The relevant Directors of Bureaux undertook to take timely follow-up action in accordance with the review report.

New Guidelines for the Control and Monitoring of Remuneration Practices in respect of Senior Executives in Subvented Bodies

6. In the light of public concern, the Steering Committee decided to strengthen the monitoring and control of remuneration practices in respect of the top three tiers of staff in subvented bodies. It is believed that a proper framework governing remuneration practices for senior executives of an organisation would in effect filter down to other tiers of staff. Specifically, the Steering Committee decided to adopt the following new guidelines for the effective control and monitoring of the ranking, structure and remunerations of the top three-tier executives in subvented bodies:

(a) Save for the exceptions in Annex A, all subvented bodies which receive more than 50% of their operating income from the Government should review their senior staff's number, ranking and remunerations and submit to their responsible Directors of Bureaux annual reports on the review findings. The relevant Directors of Bureaux may, with justifications, approve individual bodies under their purview to submit biennial or triennial review reports.

(b) Each body's review report should set out the up-to-date position in respect of the number, ranking and remuneration packages of staff at the top three tiers, and also explain and justify any changes over the period covered in the report.

(c) In assessing the appropriateness of the number and ranking of senior positions of a subvented body, the Director of Bureau will take into account the functions and overall staffing structure of the concerned body, the nature and complexity of duties being performed by each of the top three-tier executives in question, and the ranking for comparable jobs in the civil service. Where the Director of Bureau has, after consulting the Civil Service Bureau, decided that there are no comparable jobs in the civil service, reference should be made to market practices.

(d) As a general rule, the ranking of the senior staff of a subvented body should not exceed Directorate Pay Scale D8 or equivalent. A Director of Bureau should seek and obtain the ranking support of the Secretary for the Civil Service before endorsing any organisation's proposal to rank a senior position at D7 or D8 equivalent.

(e) In evaluating the appropriateness of remuneration packages for senior positions of a subvented body that have comparable civil service ranks, the relevant Director of Bureau will compare the average total cost of remunerations for a tier of staff with that of civil servants at comparable ranks. The cost comparison for each of the top three tiers of staff will comprise two parts, one for serving staff and one for the first contracts of new recruits. Details of this cost comparison approach are set out in Annex B. In the absence

of such comparable civil service ranks, reference should be made to market practices.

(f) To enhance transparency, the Director of Bureau will work out with those subvented bodies under his/her purview suitable arrangements for public disclosure of their regular review reports.

7. As the amount of operating income and subvention may change from year to year, the relevant Director of Bureau should, before the commencement of the next reporting cycle, ascertain the average operating income and subvention received by the concerned organisation over a four-year period immediately before the next reporting cycle. If the figures indicate that the organisation has on average received more that 50% of its operating income from the Government and the amount averages $10 million or more (hence not eligible for exemption over the four-year period), the organisation is required to submit a report for the next reporting cycle. Information on the remuneration package of the head of the organisation should indicate the total staff cost, with breakdown by remuneration components where applicable, such as $X on salary, $Y on housing, etc.

Other Changes in the Approach for Controlling and Monitoring Remuneration Practices in Subvented Bodies

Application of the "no double housing benefits" rule

8. Subvented bodies have hitherto been required to follow the "no double housing benefits" rule, as applicable to civil servants, in offering housing benefits to their staff. With the control of the average total cost of remunerations by separate cost comparisons for serving senior staff and the first contracts of new recruits to the top three tiers, the Steering Committee saw no need for continued enforcement of the "no double housing benefits" rule as a general guideline, or for insisting on detailed comparison of the housing or other elements of remuneration packages adopted by individual subvented bodies.

9. Notwithstanding the removal of the general requirement to enforce the "no double housing benefits" rule, it will be up to individual Directors of Bureaux to decide whether the rule should be separately considered for selected subvented bodies under their purview on a case by case basis.

Removal of the general subvention guideline on terms of service

10. Subvented organisations are hitherto subject to the general subvention guideline that the terms of service for subvented staff should not be better than those for comparable staff in the civil service, i.e. the "no better than" guideline. This "no better than" guideline focuses only on the cost of remunerations for subvented staff with comparable ranks in the civil service. It does not control ranking and structure of staff, examine cases without comparable civil service ranks or prescribe disclosure arrangements, which are matters covered by the more elaborate new guidelines applicable to the top three tiers of subvented staff.

11. With the introduction of the new guidelines set out in paragraph 6 above and to avoid micro-managing the subvented bodies, the central subvention guideline of "no better than" for application across all subvented organisations and their subvented staff will be removed at the same time. This is to strike a balance between control and flexibility. The new guidelines represent enhanced arrangements for controlling and monitoring not only the remunerations but also the structure and ranking of the top management of subvented bodies. Such arrangement will in effect set a ceiling and broad framework governing how other staff below the top three tiers in subvented bodies would be remunerated. In the circumstances, arrangements for remuneration practices in respect of other staff would be left to the subvented bodies, which in turn are subject to monitoring by relevant Directors of Bureaux. Under the "envelop" approach, the Directors of Bureaux determine annual funding to subvented bodies under their purview and are ultimately accountable for monitoring the use of the money granted.

12. The Directors of Bureaux will decide whether, in addition to the new guidelines applicable to the top three tiers of subvented staff, there should be other measures for ensuring value for money in the use of subventions on staff costs. They will have the flexibility, for example, to mandate remuneration packages for subvented staff as a condition of subvention; set cost ceilings for remuneration packages; ensure value for money by controlling output rather than checking staff costs; or give subvented bodies a complete free hand in determining their remuneration arrangements but hold their governing boards publicly accountable, etc.

Effective Date and Implementation Arrangement

13. The effective implementation date for the new guidelines is 1 April 2003. Directors of Bureaux are invited to follow up with the concerned subvented bodies the decisions in respect of the 20 selected bodies in paragraph 5, as well as implementation of the new guidelines set out in paragraph 6 of this circular memorandum. Save for those exempted in accordance with the prescribed exemption categories at Annex A, relevant subvented bodies are expected to submit their first review reports for the period from 1 April 2003 to 31 March 2004 to their respective Directors of Bureaux before end June 2004. Directors of Bureaux may, with justification, approve individual bodies under their purview to submit their first review reports on a later date.

14. Directors of Bureaux will also work out with the relevant subvented bodies the disclosure arrangement for the review reports. For a multi-disciplinary organisation providing services which fall under programme areas of different Directors of Bureaux, a Director of Bureau would be responsible for that part of the review report covering those senior staff who operate services under his/her policy purview.

15. In case a review report reveals irregularities in the practices adopted by a subvented body, the relevant Directors of Bureaux should follow up with the concerned body with a view to rectifying the situation as soon as possible. Where the Director of Bureau accepts that there are practical difficulties in early rectification in the first instance, e.g. due to the need of the concerned body to honour on-going contractual obligations and to retain staff, he/she should agree with the concerned body on the most practicable measures. In this regard, it is advisable for organisations to term their new/renewed contracts in a way that would provide flexibility for adjustment that may be required for compliance with the new guidelines. The new guidelines, being administrative in nature, and any rectification measures deemed appropriate by the Directors of Bureaux, do not and cannot prevail over an organisation's statutory powers, if any, to determine the terms and conditions of their staff. Neither can they take away the appointment authority of the organisations as employers. If an organisation decides to exercise its powers (statutory or non-statutory) in a manner that would result in non-compliance with the new guidelines, the Director of Bureau should make this known under the public disclosure arrangements and consider whether the existing level of subvention to the organisation is still justified.

16. The responsibility for administering the new guidelines promulgated in this circular memorandum rests with the relevant Directors of Bureaux. Directors of Bureaux are requested to bring this circular memorandum to the attention of their Controlling Officers. The Secretary for Financial Services and the Treasury will promulgate in a separate circular the consequential amendments to Financial Circulars, FSTB circular memoranda and various subvention guidelines as appropriate.

17. For enquiries on the internal review of the 20 selected bodies, please contact Mr Sidney Chan, Assistant Director of Administration, at 2810 2205. For enquiries on the new guidelines, please contact Ms Bernadette Linn, Principal Assistant Secretary for Financial Services and the Treasury (Treasury)B, of the Financial Services and the Treasury Bureau at 2810 2286.

(Andrew H Y Wong)
Director of Administration

cc (w/encl) :
D/CEO
SCS
AA/CS
AA/FS

Exemptions from New Guidelines for the Control and Monitoring of Remuneration of Senior Staff of Subvented Bodies

The new guidelines will not apply to those subvented bodies which receive 50% or less of their operating income from the Government. As for those subvented bodies which receive more than 50% of their operating incomes from the Government, a number of them would also be exempted from the annual review and report requirement. The exempted categories are set out as follows[1] -

(a) Category A

This covers organizations where government funds are provided as subscription/sponsorship fees. In such circumstances, it would not be appropriate for the Government, as a voluntary sponsor to these bodies, to seek to control the organizations' staffing and remuneration expenditure. **A list of such subventions is at the Appendix.**

(b) Category B

This covers circumstances where government funds are provided as fees for the procurement of services by an organization. Existing examples include hire of services in welfare sector and procurement of training places from the Outward Bound Trust of Hong Kong. In such circumstances, it would not be appropriate for the Government, as a service client to these bodies, to seek to control the organizations' staffing and remuneration expenditure.

(c) Category C

This includes organizations, or particular divisions of certain large organizations, where their top three-tier positions are funded entirely by the organizations' income from sources other than the Government. Existing examples include the administrative headquarters of the Tung Wah Group of Hospitals (TWGHs) and the Po Leung Kuk (PLK) where remunerations of their senior executives are funded by the organizations themselves. However, the senior staff of other divisions or certain subsidiary bodies of those organizations may still be covered by the proposed review and reporting arrangement subject to the latter's particular circumstances.

[1] Except for exemptions under Category A, we have not provided a breakdown of the subvented organisations by the different exemption categories. This is because the applicability of Category B to F to an organisation may change, e.g. upon a change in the level of subvention. Controlling Officers should examine the applicability of the various exemptions having regard to any changes in circumstances.

(d) Category D

This category includes organizations where their top three-tier positions are filled entirely by civil servants.

(e) Category E

It includes organizations that are receiving only limited government funds in monetary terms. The monetary level will be specified by the Government and is subject to regular review. As a start, organizations receiving subventions of less than $10 million a year will be exempted.

(f) Category F

This category covers organizations that are subject to statutory provisions or decisions approved by ExCo/LegCo on staffing matters, <u>and</u> where the provisions/decisions are in conflict with the new guidelines or have prescribed separate monitoring and control mechanisms. Examples include the Hospital Authority, schools under the Codes of Aid, and UGC-funded institutions.

List of subventions categorised as sponsorships/subscriptions

Subventions
Hong Kong Life Saving Society
Hong Kong Archaeological Society
Subventions to district sports and arts associations (Head 63 S/H 531)
Subventions to New Territories organizations (Head 63 S/H 470)
Society for the Prevention of Cruelty to Animals
World Wide Fund for Nature (HK)
Conservancy Association
Hong Kong Bird Watching Society
United Nations Children's Fund
World Meteorological Organisation
United Nations International Drug Control Programme and World Health Organisation
Asia and Pacific Development Centre
Hong Kong-Japan Business Co-operation Committee
World Customs Organisation
United Nations Development Programme
Statistical Institute for Asia and the Pacific
Network of Aquaculture Centres in Asia and the Pacific

Annex B

Cost Comparison for Vetting Remuneration Packages for Top Three Tiers of Staff in Subvented Bodies

Section A. For serving staff appointed before 1 April 2003 and staff recruited on or after 1 April 2003 but serving in their second or further contracts

The cost comparisons would be based on the annual average staff cost as indicated in the Staff Cost Ready Reckoner (SCRR) published annually by the Treasury. The SCRR provides both the monthly and annual average staff costs for each and every civil service rank. The process is summarized as follows -

(a) the subvented organization to agree with the Controlling Officer whether the jobs performed by subvented staff in the top three tiers are comparable to those for civil servants and if yes, agree a comparable civil service rank for each group of subvented posts within the top three tiers in the organization;

(b) the subvented organization to calculate the average of the total annual staff cost for each of the top three tiers of subvented posts, by taking the average of **actual expenditure** incurred on all components in remuneration packages for the concerned staff in the same tier in the past year (except that salary and fringe benefits pegged to salary should also be based on the prevailing monthly salary x 12 months, as in the treatment for the costing of similar components reflected in the SCRR for the civil servants. This is to ensure that the SCRR promptly reflects the effect of any civil service pay adjustment on staff cost); and

(c) for each tier, the cost in (b) is compared against the annual average staff cost of the comparable civil service rank(s) (there may be more than one comparable rank if there are more than one group of subvented staff within the same tier) as expressed in the prevailing SCRR. A subvented organization will have passed the test on cost comparison if the cost in (b) is at or below the SCRR cost for the comparable civil service rank(s) taken together.

Section B. For staff recruited on or after 1 April 2003 and serving their first contracts

The same procedures in Section A above apply, except that the benchmark for comparison will not be the SCRR, but recruitment benchmarks reflecting the lower cost of the prevailing remuneration packages for new recruits to the comparable civil service rank(s). In the first instance, the recruitment benchmarks will be calculated by reference to the New Term for civil service appointments applicable since 2000. The basis for determining the recruitment benchmarks will be adjusted from time to time by the Civil Service Bureau having regard to changes to civil service remuneration structures and policies. The list of recruitment benchmarks for relevant comparable ranks will be updated annually and published at the same time the SCRR is released each year. The first list of recruitment benchmarks will be published shortly.

Ref. CSO/ADMCR2/1136/01

LEGISLATIVE COUNCIL BRIEF

Internal Review of Remunerations of Senior Executives of Government-funded Bodies

INTRODUCTION

At the meeting of the Executive Council on 25 February 2003, the Council took note of:

(a) the findings of a review of remunerations of the senior executives of 20 selected bodies; and

(b) a set of new guidelines for the effective control and monitoring of the structure, ranking and remuneration for the top three-tier executives in subvented bodies.

2. With the implementation of the new guidelines, the Council ADVISED and the Chief Executive ORDERED that the Government should do away with the subvention guideline premised upon the "no better than" principle.

JUSTIFICATIONS

Review of Remunerations of Senior Executives in Selected Bodies

3. In light of the community's concern over the remuneration of the senior staff of government-funded bodies, the Steering Committee convened by the Chief Secretary for Administration conducted an internal review under a two-stage approach. During the first stage, the responsible bureaux completed a stock-taking exercise for over 300 government-funded bodies or groups of bodies under their purview. The Steering Committee wished to focus on organizations receiving recurrent financial assistance from the Government (i.e. subvented bodies) and at the same time had employed their own senior executives.

4. Under the second stage of the review, based on the bureaux' recommendations, the Steering Committee selected 20 subvented bodies for detailed examination. These 20 bodies:

(a) receive and rely on government recurrent funding as their major source of income, i.e. government subvention amounted to more than 50% of their operating income in each case; and

(b) employ their own executive staff and have devised separate remuneration packages for them.

5. Given the community's particular concern over the remuneration of the senior executives of publicly-funded bodies, for each of the 20 selected subvented bodies, the relevant bureau had examined the appropriateness of the number, ranking and remuneration packages of its top three-tier executives and made recommendations on rectifying irregularities identified. The Steering Committee concluded the review in December 2002 with the following findings:

(a) the number, ranking and remuneration packages of the senior executives in 13 selected bodies were in order;

(b) three organizations would be subject to separate review in 2003; and

(c) actions should be taken to modify remuneration packages and practices of the senior executives in the remaining four organizations.

6. The review findings are summarized at Annex A.

New Guidelines for the Control and Monitoring of Remunerations of Senior Executives of Subvented Bodies

7. In the light of public concern, the Steering Committee decided to strengthen the monitoring and control for the top three tiers of staff in subvented organizations. It also believed that the framework of remuneration practices for the senior executives of an organization would in effect filter down to other tiers of staff. Specifically, the Steering Committee decided to adopt the following new guidelines for the effective control and monitoring of the ranking, structure and remuneration of the top three-tier executives in subvented bodies:

(a) Save for the exceptions in Annex B, all subvented bodies which receive more than 50% of their operating income from the Government should review their senior staff's number, ranking and remuneration and submit to their responsible Directors of Bureaux annual reports on the review findings. The relevant Directors of

Bureaux may, with justifications, approve individual bodies under their purview to submit biennial or triennial review reports.

(b) Each body's review report should set out the up-to-date position in respect of the number, ranking and remuneration packages of staff at the top three tiers, and also explain and justify any changes over the period covered in the report.

(c) In assessing the appropriateness of the number and ranking of senior positions of a subvented body, the Director of Bureau will take into account the functions and overall staffing structure of the concerned body, the nature and complexity of duties being performed by each of the top three-tier executives in question, and the ranking for comparable jobs in the civil service. Where there are no comparable jobs in the civil service, reference should be made to market practices.

(d) As a general rule, the ranking of the senior staff of a subvented body should not exceed Directorate Pay Scale D8 or equivalent.

(e) In evaluating the appropriateness of remuneration packages for senior positions of a subvented body that have comparable civil service ranks, the responsible Director of Bureau will compare the average total cost of remuneration for a tier of staff with that of civil servants at comparable ranks. The cost comparison for each of the top three tiers of staff will comprise two parts, one for serving staff and one for the first contracts of new recruits. Details of this cost comparison approach are set out at Annex C. In the absence of such comparable civil service ranks, reference should be made to market practices.

(f) To enhance transparency, the Director of Bureau will work out with those subvented bodies under his/her purview suitable arrangements for public disclosure of their regular review reports.

8. Relevant subvented bodies are expected to submit their first review reports for the period from 1 April 2003 to 31 March 2004 to their respective Directors of Bureaux before end June 2004. Directors of Bureaux may, with justification, approve individual bodies under their purview to submit their first review reports on a later date. For a multi-disciplinary organization providing services which fall under programme areas of different Directors of Bureaux, a Director of Bureau would be responsible for that part of the review report covering those senior staff who operate services under his/her policy purview.

Application of the "no double housing benefits" rule

9. At present, the "no double housing benefits" rule as applicable to civil servants also applies to subvented staff. In essence, the civil service rule comprises the following components:

(a) if a civil servant or the spouse has forfeited his/her eligibility for housing benefits (e.g. having received full housing entitlement from the Government or a subvented body as the case may be, or being disqualified from all forms of housing benefits for whatever reasons), he/she is ineligible for further housing assistance from the Government (i.e. the forfeiture rule);

(b) home purchasing allowances for civil servants are limited to a maximum aggregate period of 10 years, irrespective of any break in service (i.e. the 10-year rule);

(c) a civil servant's maximum 10-year housing entitlement may be reduced by the period during which he/she or the spouse has received housing assistance from the Government or a subvented body (i.e. the reduction rule); and

(d) a civil servant is ineligible for any housing benefits from the Government if the spouse is receiving housing benefits from his/her employer (i.e. the no-concurrent receipt rule).

Subvented bodies have been required to follow the "no double housing benefits" rule in offering housing benefits to their staff.

10. The Steering Committee reviewed the rather cumbersome application of the "no double housing benefits" rule among subvented bodies. With the control of the total cost of remuneration by cost comparisons for serving senior staff and the first contracts of new recruits to the top three tiers as at Annex C, the Steering Committee saw no need to separately enforce the "no double housing benefits" rule as a general guideline, or to insist on detailed comparison of the housing or other elements of remuneration packages adopted by individual subvented bodies. After all, many subvented bodies offer non-attributable cash allowances in place of housing benefits; the arrangement renders the enforcement of the "no double housing benefits" rule unfruitful.

Notwithstanding the removal of the requirement to enforce the "no double housing benefits" rule, it will be up to individual Directors of Bureaux to decide whether the rule should be separately considered for individual subvented organizations under their purview on a case by case basis.

Arrangements for Subvented Staff below the Top Three Tiers

11. As the Administration will be implementing enhanced arrangements for controlling and monitoring the number, ranking and remunerations of the top management of subvented bodies, there will in effect be a ceiling and broad framework governing how other staff below the top three tiers in subvented bodies would be remunerated. It is also noted that under the accountability system, the Directors of Bureaux should be given greater flexibility in deciding suitable measures for ensuring value for money in the use of subventions by organizations under their purview. This is because, subject to the approval of the Legislative Council where necessary, a Director of Bureau will determine annual funding to subvented bodies under his/her purview from within his/her annual allocation of operating expenditure funding, and is ultimately accountable for monitoring the use of the money granted. Taking into account these considerations, the Administration seeks to strike a balance between control and flexibility. With enhanced controls at the top levels which would in turn present a broad framework for remuneration practices in subvented bodies, detailed arrangements for monitoring the remuneration practices in respect of other staff should be left to the relevant Directors of Bureaux.

12. Accordingly, the Administration has come to the view that the central subvention guideline of "no better than" for application across all subvented organizations and their subvented staff should be removed. This guideline prescribes that the terms of service for subvented staff should not be better than that for comparable staff in the civil service. It focuses only on the cost of remuneration for subvented staff with comparable ranks in the civil service. It does not control ranking and structure of staff, examine cases without comparable civil service ranks or prescribe disclosure arrangements, which are matters covered by the more elaborate set of new guidelines for the top three tiers of subvented staff. It is also noted that continued enforcement or abolition of the "no better than" principle has no bearing on the level of funding to subvented bodies, many of which receive subventions in the form of block grants determined without any reference to the remuneration policies or practices of the organizations.

13. In the absence of a central "no better than" guideline, the Directors of Bureaux will decide suitable measures for ensuring value for money in the

use of subventions by organizations under their purview. They will have the flexibility to decide to, for instance: i) mandate remuneration packages for subvented staff as a condition of subvention; ii) set cost ceilings for remuneration packages; iii) ensure value for money by controlling output rather than checking staff costs; or iv) give subvented bodies a complete free hand in determining their remuneration arrangements but hold their governing boards publicly accountable, etc.

IMPLICATIONS OF THE PROPOSAL

14. The proposal has no sustainability, productivity, economic or environmental implications.

15. The proposal has financial and civil service implications, as set out at Annex D.

PUBLIC CONSULTATION

16. When conducting the second stage of the review covering the 20 selected subvented bodies, relevant bureaux have sought information from these bodies particularly regarding their remuneration packages and practices. We would invite relevant bureaux to follow up with the concerned subvented bodies the review findings and promulgate the new guidelines to subvented bodies under their purview. The Directors of Bureaux will discuss with subvented bodies the implementation details.

PUBLICITY

17. We shall arrange to brief the Legislative Council Members and the media. A press release will be issued and a spokesman will be available to answer media and public enquiries.

BACKGROUND

18. In January 2002, the Government initiated an internal review of remunerations of senior executives of government-funded bodies. The review was conducted in addition to, but as a separate exercise from, the Hay Group's consultancy study of remunerations of senior executives of 10 statutory and other bodies which completed in June 2002. A Steering Committee convened by the Chief Secretary for Administration was set up to oversee the internal review. Under the second stage of the review, the Steering Committee conducted a detailed examination of remuneration of senior executives of 20 selected subvented bodies.

19. In reviewing the 20 selected bodies, the Steering Committee agreed to devise a set of new guidelines to enhance the control and monitoring of remunerations of the top three-tier executives of subvented bodies. In the light of the new guidelines, the Administration also examined the need for continued application of the subvention policy premised upon the "no better than" principle.

ENQUIRIES

20. Enquiries to this Legislative Council Brief may be directed to Mr Sidney Chan, Assistant Director of Administration at telephone no. 2810 2205.

Administration Wing
25 February 2003

Annex A

Summary on the Outcome of Stage II of the Internal Review of Remuneration of Senior Staff of Selected Subvented Bodies

The Ombudsman
Duty Lawyer Service
Consumer Council
Guardianship Board
Privacy Commissioner for Personal Data
Hong Kong Academy for Performing Arts
Hong Kong Council on Smoking and Health
Society for the Aid and Rehabilitation of Drug Abusers
Hong Kong Applied Science and Technology Research Institute Co. Ltd
Hong Kong Jockey Club Institute of Chinese Medicine ltd
HK Chinese Orchestra Ltd
HK Dance Company Ltd
HK Repertory Ltd

The Steering Committee accepted the responsible Bureau Secretaries' recommendations that there should be no change to the number, ranking and remuneration arrangements for the senior staff in these 13 government-funded bodies.

Vocational Training Council
Employees Retraining Board
Equal Opportunities Commission

The Steering Committee noted that the existing remuneration packages of the senior staff in the Vocational Training Council and Employees Retraining Board comply with the 'no better than' principle under the existing subvention guidelines. In anticipation of the proposed establishment of a Manpower Development Committee (MDC), originally scheduled for 2003, the Steering Committee accepted SEM's recommendation that the organizational set-up and the staff remuneration packages for these two

bodies should be reviewed in tandem. With the recent establishment of the MDC in October 2002, it is proposed that SEM should conduct the review accordingly, having regard to the progress of the taking over of the functions of the two bodies by the MDC.

SHA has examined the remuneration of the top three-tier executives of the Equal Opportunities Commission (EOC) and confirmed that the arrangements for staff of the second and third tiers were in order. However, SHA has decided to consider the remuneration arrangement for the Chairperson of the Commission in the light of the outcome of the current proposal to legislate against racial discrimination, as such legislation may have a significant impact on the work of the Chairperson.

Hong Kong Sports Development Board

The Steering Committee noted HAB's findings regarding the remuneration packages of four existing senior staff posts. SHA would follow up the matter and modify the remuneration packages for them as appropriate.

Hong Kong Philharmonic Society Ltd

The Steering Committee endorsed SHA's recommendation of downgrading three of its four Assistant General Manager posts (equivalent to MPS point 33-43) at the second tier to the third tier as Senior Managers (MPS point 27-32), leaving only one Assistant General Manager as deputy to the General Manager. This change would bring the management structure of the company more in line with three of the other performing groups. SHA would follow up the matter.

Hong Kong Arts Development Council

Although the full cost of the remuneration package of the Chief Executive post was no higher than that of a D2 officer, the Steering Committee endorsed SHA's recommendation that the Council should be asked to split the salary component into base salary and cash allowance/gratuity in the next contract of

the Chief Executive. Subsequently, the Council agreed and the salary component had been split into base salary, cash allowance and gratuity in the new contract of the Chief Executive.

Hospital Authority

The Steering Committee noted the decision of the Finance Committee in 1991 regarding the remuneration of the staff of the Hospital Authority (HA) and the relevant provisions in the HA Ordinance. The Committee also noted SHWF's findings regarding the existing remuneration packages of the HA and the Authority's proposal for changes. The Steering Committee endorsed SHWF's view that the new guidelines on control and monitoring of remunerations of senior staff of subvented bodies should not be applicable to the HA.

Annex B

Exemptions from New Guidelines for the Control and Monitoring of Remuneration of Senior Staff of Subvented Bodies

The new guidelines will not apply to those subvented bodies which receive 50% or less of their operating income from the Government. As for those subvented bodies which receive more than 50% of their operating incomes from the Government, a number of them would also be exempted from the annual review and report requirement. The exempted categories are set out as follows -

(a) Category A

This covers organizations where government funds are provided as subscription/sponsorship fees as in the case of the Asia & Pacific Development Centre. In such circumstances, it would not be appropriate for the Government, as a voluntary sponsor to these bodies, to seek to control the organizations' staffing and remuneration expenditure.

(b) Category B

This covers circumstances where government funds are provided as fees for the procurement of services by an organization e.g. management of Mai Po by the World Wild Fund for Nature, hire of services in welfare sector and procurement of training places from the Outward Bound Trust of Hong Kong. In such circumstances, it would not be appropriate for the Government, as a service client to these bodies, to seek to control the organizations' staffing and remuneration expenditure.

(c) Category C

This includes organizations, or particular divisions of certain large organizations, where their top three-tier positions are funded entirely by the organizations' income from sources other than the Government. Examples include the administrative headquarters of the Tung Wah Group of Hospitals (TWGHs) and the Po Leung Kuk (PLK) where remunerations of their senior executives are funded by the organizations themselves. However, the senior staff of other divisions

or certain subsidiary bodies of those organizations may still be covered by the proposed review and reporting arrangement subject to the latter's particular circumstances.

(d) Category D

This category includes organizations where their top three-tier positions are filled entirely by civil servants.

(e) Category E

It includes organizations that are receiving only limited government funds in monetary terms. The monetary level will be specified by the Government and is subject to regular review. As a start, we may consider adopting $10 million a year as the threshold, i.e. organizations receiving subventions of less than $10 million a year will be exempted.

(f) Category F

This category covers organizations that are subject to statutory provisions or decisions approved by ExCo/LegCo on staffing matters, <u>and</u> where the provisions/decisions are in conflict with the new guidelines or have prescribed separate monitoring and control mechanisms. Examples include the Hospital Authority, schools under the Codes of Aid, and UGC-funded institutions. For the UGC-funded institutions, the Steering Committee has accepted the recommendation of SEM that the institutions should be exempted from the proposed guidelines due to a number of considerations, including their established governance structure and the need to maintain their competitiveness in recruiting staff.

Annex C

Cost Comparison for Vetting Remuneration Packages for Top Three Tiers of Staff in Subvented Bodies

Section A. For serving staff appointed before an "Effective Date" to be promulgated and staff recruited on or after the Effective Date but serving in their second or further contracts

The cost comparisons would be based on the annual average staff cost as indicated in the Staff Cost Ready Reckoner (SCRR) published annually by the Treasury. The SCRR provides both the monthly and annual average staff costs for each and every civil service rank. The process is summarized as follows -

(a) the subvented organization to agree with the Controlling Officer whether the jobs performed by subvented staff in the top three tiers are comparable to those for civil servants and if yes, agree a comparable civil service rank for each group of subvented posts within the top three tiers in the organization;

(b) the subvented organization to calculate the average of the total annual staff cost for each of the top three tiers of subvented posts, by taking the average of **actual expenditure** incurred on all components in remuneration packages for the concerned staff in the same tier in the past year (except that salary and fringe benefits pegged to salary should also be based on the prevailing monthly salary x 12 months, as in the treatment for the costing of similar components reflected in the SCRR for the civil servants. This is to ensure that the SCRR promptly reflects the effect of any civil service pay adjustment on staff cost; and

(c) for each tier, the cost in (b) is compared against the annual average staff cost of the comparable civil service rank(s) (there may be more than one comparable rank if there are more than one group of subvented staff within the same tier) as expressed in the prevailing SCRR. A subvented organization will have passed the test on cost comparison if the cost in (b) is at or below the SCRR cost.

Section B. For staff recruited on or after the Effective Date and serving their first contracts

The same procedures in Section A above apply, except that the benchmark for comparison will not be the SCRR, but recruitment benchmarks reflecting the lower cost of the prevailing remuneration packages for new recruits to the comparable civil service rank(s). In the first instance, the recruitment benchmark will be calculated by reference to the New Term for civil service appointments applicable since 2000. The recruitment benchmark will be adjusted from time to time having regard to changes to civil service remuneration structures and policies.

Annex D

FINANCIAL AND STAFFING IMPLICATIONS

Full implementation of the Steering Committee's review findings vis-a-vis the 20 selected bodies may bring about some saving in staffing expenditure for these bodies. Under the "envelope" approach, relevant Directors of Bureaux will consider whether and how they may adjust the amount of subvention for these bodies.

2. The proposal to do away with the "no better than" subvention guideline will not have direct impact on the level of funding for individual organizations, since the guideline is a test on value-for-money rather than a criterion determining annual subventions. Under the "envelope" approach, the level of funding for individual subventions, as well as any funding clawed back for non-compliance with the "no better than" subvention guideline, are matters between the Directors of Bureaux and the subvented bodies under their purview. There will be no financial implications for the centre.

3. As for the implications on the civil service, the proposed regular monitoring mechanism for remunerations of the top three tiers of senior executives in the subvented sector may increase the workload of the Controlling Officers, but the latter should be capable of absorbing this within existing resources. We do not envisage it to bring about any increase or decrease in civil service posts.