

CHAPTER 3

Constitutional and Mainland Affairs Bureau

<h3>Equal Opportunities Commission</h3>
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**Audit Commission
Hong Kong
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This audit review was carried out under a set of guidelines tabled in the Provisional Legislative Council by the Chairman of the Public Accounts Committee on 11 February 1998. The guidelines were agreed between the Public Accounts Committee and the Director of Audit and accepted by the Government of the Hong Kong Special Administrative Region.

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EQUAL OPPORTUNITIES COMMISSION

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PART 1: INTRODUCTION

1.1 This PART describes the background to the audit and outlines the audit objectives and scope.

Background

1.2 The Government is committed to promoting equal opportunities for all and eliminating all forms of discrimination. In Hong Kong, there are four anti-discrimination ordinances prohibiting discrimination on the grounds of gender, disability, family status and race. The ordinances are as follows:

- (a) the Sex Discrimination Ordinance (SDO — Cap. 480);
- (b) the Disability Discrimination Ordinance (DDO — Cap. 487);
- (c) the Family Status Discrimination Ordinance (FSDO — Cap. 527); and
- (d) the Race Discrimination Ordinance (RDO — Cap. 602) (Note 1).

1.3 The Constitutional and Mainland Affairs Bureau (CMAB — Note 2) has the policy responsibilities for human rights and access to information. The Equal Opportunities Commission (EOC), a statutory body established in 1996 under the SDO, is responsible for overseeing the implementation of the ordinances. The CMAB is the housekeeping bureau of the EOC.

EOC

1.4 The mission of the EOC is to eliminate discrimination and promote equal opportunities. The main functions of the EOC include the following:

- (a) work towards the elimination of discrimination on the grounds of sex, marital status, pregnancy, disability, family status and race;

Note 1: *The RDO was enacted in July 2008 to provide protection against racial discrimination. The Administration aims to have the RDO come into full operation in mid 2009.*

Note 2: *Before 1 July 2007, the Home Affairs Bureau was the policy bureau responsible for human rights and access to information. Since July 2007, following the reorganisation of the Government Secretariat, the CMAB has taken over the policy responsibilities.*

- (b) promote equality of opportunities between men and women, between persons with a disability and persons without a disability, and irrespective of family status and race;
- (c) conduct investigation into complaints lodged under the relevant legislation, and encourage conciliation between the parties in dispute;
- (d) develop codes of practice concerning equal opportunity issues; and
- (e) keep under review the relevant legislation and, when necessary, draw up proposals for amendments.

1.5 As at 1 December 2008, the EOC had an establishment of 86 staff. An organisation chart of the EOC is shown at Appendix A.

Income and expenditure

1.6 The EOC is funded mainly by recurrent subventions from the Government. For 2007-08, the income of the EOC was \$76.1 million and its expenditure was \$72.8 million. The government subvention of \$73.5 million accounted for 97% of the EOC's income. The staff cost of \$51.4 million accounted for 71% of the EOC's expenditure. For 2008-09, the government subvention for the EOC is \$76.5 million.

Audit review

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

- (a) corporate governance (PART 2);
- (b) complaint handling procedures (PART 3);
- (c) duty visits outside Hong Kong (PART 4);
- (d) seminars (PART 5);
- (e) procurement and management of stores (PART 6);
- (f) other administrative issues (PART 7); and
- (g) performance reporting in Controlling Officer's Report (COR — PART 8).

1.8 Audit has found room for improvement in the above areas and has made recommendations to address the issues.

General response from the EOC

1.9 The **Chairperson, EOC** has said that:

- (a) the audit has been a useful exercise and has given the EOC the opportunity to reflect upon its procedures and operations. The audit has also helped the EOC to focus on areas where further improvements and refinements can be made; and
- (b) the EOC is committed to ensuring good governance, accountability and transparency in its operations. The recommendations offered by Audit will assist the EOC in its efforts to realise continuous improvement and further enhance its internal management capabilities.

Acknowledgement

1.10 Audit would like to acknowledge with gratitude the full cooperation of the staff of the EOC and the CMAB during the course of the audit review.

PART 2: CORPORATE GOVERNANCE

2.1 This PART discusses corporate governance issues of the EOC and suggests measures for improvement. The following issues are discussed:

- (a) the Chairperson and the Chief Executive Officer (CEO) posts (paras. 2.4 to 2.13);
- (b) Board and Committee meetings (paras. 2.14 to 2.33); and
- (c) Memorandum of Administrative Arrangements (MAA — paras. 2.34 to 2.39).

Governance structure of the EOC

2.2 According to the SDO, Members of the EOC comprise a Chairperson and not less than 4 or more than 16 other Members, each being an individual who is not a public officer. They are appointed by the Chief Executive of the Hong Kong Special Administrative Region to form the governing body (referred to as the “EOC Board” or the “Board” in this report) with authority to perform the functions and exercise the powers of the EOC. The Chairperson shall be appointed on a full-time basis, and the other Members may be appointed on a full-time or part-time basis, for a term not exceeding five years. As at 1 January 2009, the Board consisted of a full-time Chairperson and 16 other Members appointed on a part-time basis.

2.3 According to the SDO, the EOC Board may establish committees for the better performance of its functions. The Board may appoint its Members, and persons who are not such Members, to be members of a committee. Four committees have been established for overseeing various aspects of the EOC’s operations. They are the Administration and Finance Committee, the Community Participation and Publicity Committee, the Legal and Complaints Committee, and the Public Education and Research Committee. Their main functions are listed at Appendix B.

The Chairperson and the Chief Executive Officer posts

Deletion of CEO post in 2000

2.4 The Chairperson is pitched at the rank equivalent to Point 8 of the Directorate Pay Scale of the Civil Service. When the EOC came into operation in September 1996, there was, under the Chairperson, a CEO (Directorate Pay Scale Point 3) managing the day-to-day business of the EOC. In mid 2000, the Board endorsed a revised organisational structure of the EOC to streamline its operation. The main changes were to:

-
- (a) delete the CEO post;
 - (b) upgrade the post of the then Director (Administration) at Directorate Pay Scale Point 1, to Director (Planning and Administration) at Directorate Pay Scale Point 2; and
 - (c) re-allocate the duties of the CEO to the Chairperson and the Director (Planning and Administration).

The structural changes could achieve a net annual saving of \$2.1 million. The Home Affairs Bureau (HAB), the then housekeeping bureau of the EOC, had no objection to the proposal. In July 2000, the CEO post was deleted.

EOC reviews (2004)

2.5 In 2004, the EOC completed a review of its role and organisational and management structure, and another review of its human resources management policies, procedures and practices. Both reviews recommended, among other things, that the CEO post should be reinstated. As to whether the Chairperson should be a part-time position, the first review indicated that further consideration was required. The second review indicated that, with the assistance of a full-time CEO, the Chairperson would be able to maintain effective management of the EOC's affairs even though in a part-time capacity. The EOC Board considered the proposals of the two EOC reviews and the Independent Panel of Inquiry (see para. 2.6) and, at a meeting held in January 2006, agreed in principle to the HAB's proposal to reinstate the CEO post (see para. 2.7). Board Members took the view that separating the Chairperson and the CEO posts would be acceptable, provided that any change would achieve the desired result of strengthening the governance structure and would not affect the EOC's importance and ability in administering the anti-discrimination legislation.

Independent Panel of Inquiry (2005)

2.6 In 2005, the Independent Panel of Inquiry (Note 3), appointed by the Secretary for Home Affairs to inquire into certain incidents which had affected the EOC's credibility, submitted its report. The Panel recommended, among other things, that:

- (a) the posts of the Chairperson and the CEO should be separated, and that the post of the CEO should be reinstated. It was desirable that the Chairperson should be a non-executive position appointed on a part-time basis; and
- (b) the CEO should be an ex-officio executive member of the governing board of the EOC.

Note 3: *The terms of reference of the Independent Panel of Inquiry were to inquire into the appointment and termination of employment of the Director (Operations) by the EOC and issues related thereto, and to inquire into the incidents which had affected the EOC's credibility and to make recommendations on measures to restore the EOC's credibility.*

HAB review (2006)

2.7 In January 2006, the HAB completed a review of the corporate governance of the EOC. The HAB reported that:

- (a) the EOC was a non-departmental public body. A non-departmental public body with a non-executive chairperson and a CEO as the administrative head of the organisation was clearly the norm of good corporate governance. It provided an effective system of checks and balances. The corporate governance of the EOC was not in line with this norm;
- (b) in 2005, the Independent Panel of Inquiry recommended that the Chairperson should be appointed on a part-time basis and the CEO post should be reinstated. The HAB endorsed this recommendation;
- (c) the composition and structure of the EOC was set out in the SDO. The SDO would have to be amended if the composition of the EOC was to be changed; and
- (d) the Administration would consult the EOC and other relevant bodies before taking the legislative proposals forward.

Consultation with Home Affairs Panel (2006)

2.8 In the same month, the HAB consulted the Home Affairs Panel of the Legislative Council (LegCo). At the meeting, some LegCo Members raised reservations, including the following:

- (a) the proposal would have impact on the public's perception of the EOC's independence;
- (b) the EOC was responsible for safeguarding human rights and due to its unique nature, it was inappropriate to compare the EOC with other public bodies which had a different nature;
- (c) it was of particular importance to the EOC to have an executive Chairperson who had the vision and leadership and possessed strong executive ability; and
- (d) the proposal would result in a situation that the EOC would become executive-led and the Chairperson would be sidelined.

The EOC Chairperson also mentioned that the impact of the proposal on the stability of the EOC and staff morale required careful consideration.

2.9 LegCo Members requested the Administration to provide:

- (a) more detailed justifications for the proposal;
- (b) information on overseas experiences; and
- (c) the timetable for the consultation with the EOC and the relevant bodies, and the submission of the relevant information.

The Administration agreed to provide a paper on the proposal for consultation with the Home Affairs Panel after it had collated the views received from the EOC and the relevant bodies. The Administration also undertook to provide a timetable for the Home Affairs Panel.

Latest position

2.10 In July 2007, the CMAB took over from the HAB policy responsibilities relating to human rights and access to information. In late 2008, the EOC wrote to the CMAB enquiring about the Government's position on the proposal. The CMAB replied that, in view of the strong reservations raised by some LegCo Members at the Home Affairs Panel meeting held in January 2006, the Government had withheld action on the proposal. In due course, the CMAB would examine the matter, taking into account the actual operational experience and the views earlier expressed by LegCo Members.

Audit observations and recommendation

2.11 The results of past reviews conducted by three different parties (the EOC, the Independent Panel of Inquiry and the HAB) have all pointed to the need to separate the posts of the Chairperson and the CEO, in order to provide an effective system of checks and balances. However, Audit notes that there has been a lack of progress after the Home Affairs Panel meeting held in January 2006.

2.12 In this connection, Audit research indicates that, in a publication "Corporate Governance for Public Bodies — A Basic Framework", the Hong Kong Institute of Certified Public Accountants also recommends that the roles of chairperson of the board of a public organisation and its CEO should be separated and that the positions be occupied by different persons, in order to strengthen the structural checks and balances. **Audit has recommended that the Secretary for Constitutional and Mainland Affairs should expedite action to take the matter forward and bring it to a satisfactory conclusion.**

Response from the Administration

2.13 The **Secretary for Constitutional and Mainland Affairs** accepts the audit recommendation. He has said that:

- (a) the CMAB will take forward this matter and bring it to a conclusive stage;
- (b) in view of the strong reservations expressed by some LegCo Members in January 2006, the Government had withheld action on the separation proposal;
- (c) in the light of the audit recommendation, the CMAB has reviewed the relevant considerations, including the reservations expressed by LegCo Members in January 2006. The following are valid concerns:
 - (i) the EOC is a very important human rights institution. Due to this unique nature, it is crucial to assess what form of structure would help the EOC perform this important function, rather than just comparing its structure with that of other public bodies;
 - (ii) the separation proposal may result in a situation under which the EOC would become executive-led;
 - (iii) it would be important for the EOC to continue to have a Chairperson who has the vision and executive authority; and
 - (iv) the CMAB should be mindful of any possible public perception that the separation proposal may undermine the EOC's independence in carrying out its functions;
- (d) as for operational considerations, there is no indication that the EOC has faced fundamental difficulties in its operations under its current structure. The EOC has been performing its functions steadily in the elimination of discrimination and promotion of equal opportunities;
- (e) in terms of governance, the major policies and decisions of the EOC are not made by the EOC Chairperson alone, but discussed and approved by the EOC Board collectively. The existing checks and balances system within the EOC has generally served its functions; and
- (f) LegCo Members had expressed some clear reservations previously about the separation proposal. In taking forward discussions on this matter, the CMAB will take into account any further views to be expressed by LegCo Members and the relevant quarters of the community.

Board and Committee meetings

2.14 The effectiveness of the governing body of any organisation to fulfil its responsibilities is largely dependent on its members' knowledge, experience, competency and, most important of all, their commitment. EOC Board/Committee Members take part in deliberations and decision-making at Board/Committee meetings to discharge the responsibility of the EOC.

Audit observations and recommendations

Attendance of Members at Board/Committee meetings

2.15 Audit reviewed the attendance records of Board/Committee meetings from 2002-03 to 2008-09 (up to September 2008). Audit found that the average attendance rates of Members at Board/Committee meetings ranged from 63% to 78% (see Appendix C for details). Audit also found that the attendance rates of some Members were low. For example, during the period from April 2007 to September 2008:

- (a) **Board meetings.** A Member attended only one (11%) of the nine meetings held during the period. Another Member attended only four (44%) of the meetings; and
- (b) **Committee meetings.** Five Members attended less than 40% of the meetings.

The low attendance of some Members at Board/Committee meetings is a matter of concern, because without their participation and contribution, the effectiveness of the Board/Committees might be affected.

Reappointment of Board Members with low attendance

2.16 The Government Secretariat's guidelines, issued in August 1999, on the appointment of members of advisory and statutory bodies highlight the importance of ensuring that only those who are competent and committed to the work of the advisory/statutory bodies are appointed. The guidelines stipulate that bureaux and departments should take into account a number of general principles in appointing members to the advisory and statutory bodies. There should be regular evaluation of the performance and commitment of the chairpersons and members of the bodies, including their attendance records, to facilitate consideration of their suitability for reappointments.

2.17 Audit noted that:

- (a) two Board Members were reappointed for the period 20 May 2003 to 19 May 2004 although their attendance rates at Board meetings for the one-year term before their reappointments were only 20%; and
- (b) another two Board Members were reappointed for the period 20 May 2007 to 19 May 2009 although their attendance rates at Board meetings for the two-year term before their reappointments were only 47%.

2.18 In considering reappointments of Board Members, there may be other factors (such as personal abilities, expertise, experience, integrity and commitment to public service) that need to be taken into account. However, Audit considers that due consideration should be given to the attendance of Members at Board meetings in assessing their suitability for reappointments.

Reappointment of Committee Members with low attendance

2.19 EOC Board Members are appointed by the Chief Executive of the Hong Kong Special Administrative Region. After being appointed as EOC Board Members, they may choose to join EOC Committees. Appointment and reappointment of EOC Committee Members are decided by the EOC Board.

2.20 Audit noted that the attendance rates at Committee meetings for four Members before their reappointments (made in 2004, 2007, 2003 and 2004) were 0%, 17%, 25% and 33% respectively. Audit considers that due consideration should be given to the attendance of Members at Committee meetings in assessing their suitability for reappointments.

Quorum of meetings

2.21 The EOC Notes for Guidance for Members on Procedures for Meetings and Related Matters (NGPM) stipulate that the quorum for Board/Committee meetings shall not be less than half of the total number of serving Members.

2.22 Once a quorum is formed, a meeting may begin. When the number of members present slips below the required minimum, a quorum is broken and the meeting is technically adjourned. Audit examination of the records of the Board/Committee meetings, held in 2007-08 and 2008-09 (up to September 2008), revealed that the EOC had not ensured a quorum was present throughout all Board/Committee meetings. The audit findings are as follows:

- (a) at a Committee meeting (i.e. the Community Participation and Publicity Committee meeting held on 24 April 2008), the meeting began before a quorum was formed;
- (b) at a Board meeting (held on 9 January 2008), the quorum was broken during the meeting but the meeting continued before the quorum was formed again; and
- (c) at two other Board meetings (held on 20 December 2007 and 18 September 2008) and one Committee meeting (i.e. the Public Education and Research Committee meeting held on 24 April 2008), the quorum was broken during the meetings and was not formed again. However, the meetings continued and were not adjourned.

Cancellation of meetings

2.23 Audit examination of the records of Board/Committee meetings revealed that two scheduled Public Education and Research Committee meetings in August 2005 and February 2006 were cancelled due to lack of quorum. However, the two cancelled meetings were not rescheduled. According to the terms of reference sent to the Members, a Public Education and Research Committee meeting should be held in every three months. As a result of the cancellation of the two meetings:

- (a) only two Public Education and Research Committee meetings were held in 2005-06; and
- (b) the work plan on training and consultancy for 2006-07, which was scheduled to be presented to Members for discussion at the meeting in February 2006, could only be presented to Members at the meeting in May 2006, i.e. after the start of the financial year.

2.24 Audit notes that the NGPM has not laid down guidelines on the need for rescheduling cancelled meetings. Such guidelines, in Audit's view, may help ensure that Committee meetings are held in accordance with the frequency stipulated in the terms of reference, and that time-critical issues are deliberated in a timely manner.

Issue of minutes of meetings to Board/Committee Members

2.25 According to the NGPM, the minutes of Board/Committee meetings should be issued to Members as soon as possible after each meeting. This procedure is in line with good practice because it enables Members to comment on the minutes or suggest amendments while their memory is still fresh. However, Audit examination of the records for Board/Committee meetings held from 2005-06 to 2007-08 revealed that, on average, it took 46 days after the meetings for minutes to be issued to Members. In one case, the time taken was 112 days.

Documentation of declarations of interests

2.26 The NGPM stipulates that Board/Committee Members are required to declare interests as and when a matter placed for discussion at a meeting poses a conflict of interests. The Chairperson (or the Convenor) shall decide whether the Members disclosing an interest may speak or vote on the matter, may remain in the meeting as an observer, or should withdraw from the meeting. The secretary should keep proper records in a central file of any declaration of interests made and follow-up actions taken. All cases of declaration of interests should also be recorded in the minutes of the meeting.

2.27 Audit examination revealed that the aforesaid procedure was not always followed for the meetings of the Community Participation and Publicity Committee held between June 2005 and July 2008. In the case of nine Members who had verbally declared their interests at meetings, Audit found that the declarations and follow-up actions were not recorded in the central file.

Reporting systems for managing potential conflicts of interests

2.28 The EOC at present adopts a “one-tier reporting system”, which requires a Member to declare and report a conflict of interests only when he becomes aware of it. In this connection, Audit notes that some public organisations (Note 4) have adopted a more stringent requirement, known as the “two-tier reporting system”, for managing conflicts of interests. Under such a system, members are required to disclose their general interests, direct or indirect, pecuniary or otherwise, on appointment to the board or committees. This is in addition to the report on conflicts of interests at board or committee meetings as and when they arise.

2.29 The HAB advocates the two-tier reporting system for advisory/statutory bodies which have a high degree of management and financial autonomy, extensive executive powers in matters of public interest, or are responsible for the control and disbursement of substantial public funds. As the EOC meets the aforesaid criteria, consideration may need to be given to adopting the two-tier reporting system to enhance transparency.

Audit recommendations

2.30 **Audit has recommended that the EOC should:**

Note 4: *Examples include the Hong Kong Tourism Board, the Hong Kong Applied Science and Technology Research Institute Company Limited, and the University Grants Committee.*

Attendance of Members at Board/Committee meetings

- (a) **monitor the attendance of Members at Board/Committee meetings and ascertain the reasons for low attendance;**
- (b) **take action to improve the attendance of Members at Board/Committee meetings by, for example, issuing reminders to Members with low attendance to encourage them to make efforts to attend the meetings;**

Reappointment of Committee Members with low attendance

- (c) **take into account the attendance of Members at Committee meetings in assessing their suitability for reappointments to Committees;**

Quorum of meetings

- (d) **ensure that the quorum requirement is met throughout all Board/Committee meetings;**
- (e) **review the decisions made, if any, at the three Board meetings and the two Committee meetings (referred to in para. 2.22) when the quorum requirement was not met to see whether remedial actions are necessary;**

Cancellation of meetings

- (f) **provide guidelines on the need for rescheduling cancelled meetings, to ensure that Board/Committee meetings are held in accordance with the frequency stipulated in the terms of reference, and that time-critical issues are deliberated in a timely manner;**

Issue of minutes of meetings to Board/Committee Members

- (g) **ensure that minutes of meetings are issued to Members as soon as possible after the meetings and set a target for monitoring purpose;**

Documentation of declarations of interests

- (h) **ensure that all declarations of interests and the related follow-up actions are recorded in the central file; and**

Reporting systems for managing potential conflicts of interests

- (i) consider adopting the two-tier reporting system for managing potential conflicts of interests of Board/Committee Members.

2.31 Audit has *recommended* that the Secretary for Constitutional and Mainland Affairs should take into account the attendance of Members at Board meetings in assessing their suitability for reappointments to the EOC Board.

Response from the EOC

2.32 The EOC accepts the audit recommendations in paragraph 2.30. The Chairperson, EOC has said that:

Attendance of Members at Board/Committee meetings

- (a) so far, information regarding attendance is kept by the respective secretaries to the Board and Committees and recorded in the relevant minutes. The EOC will establish a central register of attendance to facilitate monitoring of Members' attendance at Board and Committee meetings, including their reasons for absence;
- (b) a general reminder on the importance of Members' presence at Board/Committee meetings has been issued to all Members. Specific reminders will be issued to the Members who fail to attend two consecutive meetings;

Reappointment of Committee Members with low attendance

- (c) Members' attendance will be taken into account when their reappointments are being considered. The central register mentioned in (a) above will facilitate the process;

Quorum of meetings

- (d) the EOC will ensure that the requisite quorum is present throughout meetings;
- (e) regarding decisions made at the meetings referred to in paragraph 2.22, a review has been conducted as suggested by Audit. It is confirmed that all decisions were made when a quorum was present at the relevant meetings;

Cancellation of meetings

- (f) the Board and the Committees will be requested to consider setting appropriate guidelines on the need for rescheduling cancelled meetings;

Issue of minutes of meetings to Board/Committee Members

- (g) one month from the date of meeting has been set as a target for issuing draft minutes, effective from February 2009;

Documentation of declarations of interests

- (h) the declarations relevant to the meetings mentioned in paragraph 2.27, originally kept in the working files, have since been placed in the central file; and

Reporting systems for managing potential conflicts of interests

- (i) the EOC will consider whether a two-tier reporting system will be adopted. The issue will be raised for discussion with the CMAB.

Response from the Administration

2.33 The **Secretary for Constitutional and Mainland Affairs** accepts the audit recommendation in paragraph 2.31. He has said that:

- (a) it is the CMAB's established policy and practice to appoint the most suitable persons to the EOC. In considering reappointments of Board Members, the Administration takes into account the attendance rates of Members, together with other factors including their abilities, expertise, experience, integrity and commitment to public service;
- (b) in the case of the two Members reappointed in 2003 (see para. 2.17(a)), the Administration gave due consideration to the attendance rates of the Members concerned. Nonetheless, taking into account other factors such as expertise and experience, reappointment was made. In the case of the two Members reappointed in 2007 (see para. 2.17(b)), the decision to reappoint the serving Members took into account the need to maintain continuity in various areas of work of the EOC, as all the 13 serving Members had served for only two years upon expiry of the term;

- (c) the CMAB will continue to take into account the attendance rates of Members together with other relevant factors in assessing the suitability of Members for reappointment; and
- (d) the CMAB notes that the EOC has introduced a practice since February 2009 to remind Members of the importance of attending EOC meetings. The EOC has written to Members accordingly.

Memorandum of Administrative Arrangements

2.34 *MAA (1997)*. The Financial Services and the Treasury Bureau has issued “Guidelines on the Management and Control of Government Funding for Subvented Organisations” to provide a reference for Directors of Bureaux and Controlling Officers on how to manage and control government funding for subvented organisations. According to the Guidelines, as a matter of good management, Directors of Bureaux and Controlling Officers should preferably enter into an MAA with each organisation receiving recurrent funding from the Government. Such tailor-made instruments should set out the responsibilities of all parties in the delivery and monitoring of government-funded services and capital projects. Directors of Bureaux and Controlling Officers are expected to review the MAAs periodically. In March 1997, an MAA providing the framework for the working relationship between the Government and the EOC was signed between the Secretary for Home Affairs and the Chairperson of the EOC.

2.35 *Proposed amendments (2004)*. Over the years, there were changes in the administrative procedures and control framework of subvented organisations. As a result, some provisions of the MAA were outdated. In April 2004, the HAB proposed to amend the MAA after taking into account the following major changes:

- (a) following the Government’s introduction of new guidelines on the monitoring and control of remuneration practices for subvented bodies in March 2003, the EOC was required to review the number, ranking and remuneration of its senior staff, and submit annual review reports to the HAB. Also, the EOC was not required to offer terms of service not superior to those offered for comparable civil service grades;
- (b) under the envelope approach, the EOC had to deploy its own resources to absorb new funding requirements; and
- (c) the EOC was allowed to retain surplus funds and vire funds within the recurrent accounts.

2.36 ***Further proposed amendments (2005).*** In August 2005, to promote higher standards of corporate governance and uphold the highest standards of conduct for the Chairperson, the HAB issued a proposed Code of Conduct to the Chairperson for comments. Under the proposed Code, the Chairperson should seek the approval of the Secretary for Home Affairs before embarking on any overseas duty visits. The HAB proposed further amendments to the MAA in this regard. In January 2006, the Chairperson replied that the proposed Code was not consistent with the spirit and intent of the law administered by the EOC, and the EOC would not be in a position to accept the Code.

2.37 ***Latest position.*** In July 2007, the CMAB became the policy bureau overseeing the EOC. In late 2008, in response to the CMAB's suggestion to reflect the changes in circumstances in the MAA and to pursue amendments yet to be finalised, the EOC suggested further amendments to the MAA for the CMAB's consideration. Up to January 2009, agreement had not yet been reached.

Audit observations and recommendations

2.38 The MAA is an important document because it provides the framework for the working relationship between the Government and the EOC. However, some provisions in the present MAA have become outdated due to changes in circumstances. **Audit has recommended that the Secretary for Constitutional and Mainland Affairs should, in collaboration with the EOC:**

- (a) **expedite action to finalise the proposed amendments to the MAA; and**
- (b) **in future, take timely action to update the MAA to reflect changing circumstances.**

Response from the Administration

2.39 The **Secretary for Constitutional and Mainland Affairs** accepts the audit recommendations. He has said that:

- (a) in fact, the CMAB has taken the initiative to restart the discussion with the EOC and the Financial Services and the Treasury Bureau in late 2008, with a view to updating the MAA in the light of changes in the funding mechanism and the reorganisation of the Government's structure. The proposed amendments have been put to the EOC for consideration; and
- (b) in future, the CMAB will take timely action to update the MAA as and when there are changes in circumstances.

PART 3: COMPLAINT HANDLING PROCEDURES

3.1 When a person lodges a complaint (of discrimination, harassment and vilification under the SDO, the DDO and the FSDO) in writing, the EOC is required by law to conduct an investigation into the complaint and try to settle it by conciliation, unless the EOC exercises its discretion to discontinue the investigation. This PART examines issues relating to the EOC's handling of complaints and investigations, and suggests measures for improvement. The following issues are examined:

- (a) the complaint handling process of the Operations Division (paras. 3.2 to 3.13);
- (b) the settlement register (paras. 3.14 to 3.16); and
- (c) information on the EOC website about enquiries/complaints (paras. 3.17 to 3.20).

The Operations Division

3.2 Headed by the Director (Operations), the Operations Division of the EOC is responsible for dealing with enquiries and complaints management. As at 1 December 2008, it had an establishment of 24 staff, comprising the Director (Operations), 2 Chief Equal Opportunities Officers (CEOs), 5 Senior Equal Opportunities Officers, 5 Equal Opportunities Officers, 7 Assistant Equal Opportunities Officers and 4 supporting staff.

3.3 When investigating a complaint, EOC officers look into the facts of each case with both parties (i.e. the complainant and the respondent) being given the opportunity to comment and respond to the allegations made. Where it is considered appropriate, EOC officers endeavour to resolve the matter through conciliation, helping the parties involved to reach a settlement. Settlements of the dispute are varied and may include an apology, compensation or the carrying out of certain actions (such as changes of practices and reviews of work procedures). Should the parties reach a settlement, the agreement signed by the parties is a contract and is legally binding.

3.4 When a settlement cannot be reached, the EOC will consider other forms of assistance if the complainant makes an application to take the matter further. The EOC looks at each application individually, considering issues of principle as well as the ability of the applicant to deal with the case unaided. Assistance granted may include advice, legal assistance or any other assistance deemed appropriate.

3.5 In 2007-08, the EOC completed investigations on 781 cases of alleged unlawful behaviour. Of this number, 267 proceeded to conciliation with 191 reaching successful settlement. The other 514 complaints did not proceed to conciliation and they were discontinued for a variety of reasons (Note 5).

The Internal Operating Procedures Manual

3.6 The policy issues relating to the handling of complaints are set out in the Internal Operating Procedures Manual (IOPM). The IOPM sets out the following internal operating procedures and directions to be followed by EOC staff:

- (a) incoming written correspondence should be assessed by the CEOO to determine whether or not the correspondence is in the nature of a complaint;
- (b) the officer assigned to deal with the complaint should prepare an investigation plan and draft a statement of complaint in accordance with the information provided by the complainant. These should then be passed to the CEOO for comment. An investigation plan is essential to help focus the officer's mind on the specific nature and requirements of the individual complaint (Note 6). It will also help others who may need to review the file; and
- (c) during the course of investigation, the officer should assess the complaint in the light of the supporting evidence obtained. An investigation report should be prepared for the CEOO's information and approval.

Note 5: *The reasons for discontinuing with the investigations were as follows: (a) the act in question was not unlawful; (b) the complainant no longer wanted to pursue the complaint; (c) a period of over 12 months had passed since the act was committed; (d) the dispute was resolved through other means; or (e) the EOC considered that the complaint was frivolous, vexatious, misconceived or lacking in substance.*

Note 6: *In the IOPM, there is a sample of the investigation plan setting out the key components requiring attention in planning an investigation. The components are: (a) the allegations; (b) the complainant/representative of the complainant; (c) the respondents; (d) relevant legislation; (e) complaints lodged within/out of time; (f) alternative actions endeavoured by the complainant/respondents; (g) handling factors requiring priority action; (h) summary of available evidence of unlawful act provided by the complainant (in chronological order); (i) source of further evidence that may be required; and (j) actions in priority (proposed time frames).*

Consultants' recommendations on complaint intake process

3.7 In a consultants' report issued in 2002 (Note 7), recommendations were made on the EOC's complaint intake process. The report recommended that the Director (Operations) should make all initial intake decisions in relation to each complaint. He should categorise new complaints according to a differential case management approach that recognises:

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

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

Audit examination of complaint cases

3.9 Audit selected for examination a sample of 30 complaint cases recently handled by the EOC. The objectives of the audit examination were to check compliance with the IOPM and to see whether there was room for improvement. The audit findings are reported in paragraphs 3.10 to 3.12.

Audit observations and recommendations

3.10 **Complaint intake process.** Audit supports the consultants' recommendations on the EOC's complaint intake process (see paras. 3.7 and 3.8), because the recommendations will enhance the efficiency and effectiveness of the EOC's handling of complaint cases.

Note 7: *In 2002, the EOC employed two consultants from Australia to conduct a review of the complaint handling operations of the EOC and related matters. The terms of reference of this review were to identify, report and make recommendations, among other things, on any further improvements to complaint handling procedures in accordance with the objective of effective, consistent, fair, timely and efficient resolution of complaints.*

However, in the 30 case files examined by Audit, there were no “complaint intake forms” to indicate that proper initial intake decisions had been made by officers at an appropriate level. **Audit has recommended that the EOC should ensure that all initial intake decisions are properly taken and documented. The EOC should also consider incorporating the consultants’ recommended practice in the IOPM to guide future operations.**

3.11 ***Investigation plan.*** In examining the 30 case files, Audit noted that investigation plans were not prepared and submitted to the CEOO for comment, contrary to the requirement of the IOPM (see para. 3.6(b)). **Audit has recommended that the EOC should remind its staff of the need to prepare investigation plans to guide the investigations, in compliance with the IOPM requirement.**

3.12 ***Closure dates.*** Furthermore, Audit found three instances (in the 30 case files examined) where the case closure dates were wrongly input into the computerised complaint management system. In one case, for example, approval for closure was given on 15 October 2008, but the closure date was wrongly input into the system as 2 October 2008, a difference of 13 days. **As accurate data are essential for case management, Audit has recommended that the EOC should take measures to ensure that data in the computerised complaint management system are accurate.**

Response from the EOC

3.13 The EOC accepts the audit recommendations. The **Chairperson, EOC** has said that:

Complaint intake process

- (a) the EOC will ensure that all initial intake decisions are properly documented. The EOC will also consider incorporating the consultants’ recommended practice in the IOPM;

Investigation plan

- (b) staff will be reminded to prepare an investigation plan in accordance with the relevant IOPM requirement; and

Closure dates

- (c) the discrepancies about closure dates identified by Audit have since been rectified. The EOC will initiate a system of random checking at quarterly intervals to ensure data accuracy.

Settlement register

3.14 The 2002 consultants' report also recommended that the EOC should establish a public register of conciliated settlements to assist in the settlement of complaints on appropriate terms. In February 2004, Board Members were informed that the consultants' recommendation had been accepted and implemented. A settlement register has since been put on the EOC website reflecting the terms of settlement of successful conciliation for public information.

Audit observations and recommendation

3.15 Audit notes that settlement information for conciliation concluded between 2000 and 2005 is available in the settlement register on the EOC website, but not cases concluded in 2006 and thereafter. **Audit has recommended that the EOC should update the settlement register on its website with the latest conciliation cases for public information.**

Response from the EOC

3.16 The EOC accepts the audit recommendation. The **Chairperson, EOC** has said that in the meantime, the EOC will also review the format and contents of conciliated cases, with a view to refreshing the presentation of case outcomes on the EOC website. This would make the information more meaningful to web users and facilitate their understanding.

Information on the EOC website about enquiries/complaints

3.17 Statistics on enquiries and complaints are promulgated on the EOC website. This helps the public understand the EOC's enquiry and complaint handling activities.

Audit observations and recommendation

3.18 Audit reviewed the statistics on the EOC website as at 19 December 2008 and found that some of the statistics (relating to the period 1 January to 31 December 2007) were inaccurate. The audit findings are as follows:

- (a) the number of enquiries under the “Interactive voice response system” shown on the EOC website was 371. Upon enquiry, EOC staff informed Audit that there was a typing mistake and the correct figure should be 5,390; and
- (b) the numbers of complaint cases where legal assistance was granted under the SDO, the DDO and the FSDO were shown on the EOC website as 72, 91 and 10 respectively. However, these were the cumulative figures since 1996. The actual numbers for the period 1 January to 31 December 2007 were only 8, 4 and 1 respectively.

3.19 **Audit has recommended that the EOC should ensure that the figures shown on its website are accurate.**

Response from the EOC

3.20 The EOC accepts the audit recommendation. The **Chairperson, EOC** has said that an officer will be designated with the responsibility to ensure data accuracy and literacy prior to uploading onto the EOC website.

PART 4: DUTY VISITS OUTSIDE HONG KONG

4.1 The EOC attaches importance to maintaining exchanges with international human rights organisations and keeping itself up to date with relevant developments in different parts of the world. To this end, EOC staff, Board Members and the Chairperson actively participate in international and regional meetings, seminars and conferences (Note 8). Audit has selected two duty visits (Note 9) for case study, namely the Beijing visit in July 2005 and the Sweden visit in September 2007. The benefits of these visits, usually in terms of experience sharing and networking, are intangible and difficult to assess. Thus, Audit's case studies were necessarily focused on the cost aspect. This PART reports the areas for improvement identified in Audit's case study of:

- (a) the Beijing visit (paras. 4.7 to 4.18); and
- (b) the Sweden visit (paras. 4.19 to 4.30).

Sensitive expenditure

4.2 Before going into the details of Audit's case studies, it is worth pointing out that expenditure incurred by a public entity on duty visits can be a sensitive issue. The expenditure covers a variety of items such as air passages, hotel accommodation, meals, and hospitality expenses.

4.3 The amount of money spent on an item of sensitive expenditure may be small in the context of an entity's total expenditure. However, each sensitive expenditure decision is important, because improper expenditure could harm the reputation of, and trust in, the entity. Therefore, although the expenditure may be fully justified, its potential sensitivity means that careful decision-making is needed.

4.4 Audit research on the subject indicates that public entities should observe certain basic principles in making sensitive expenditure decisions, including the following:

- (a) there should be a justifiable business purpose for the expenditure; and

Note 8: *Between April 2005 and December 2008, the EOC spent a total of \$762,000 on 26 duty visits.*

Note 9: *The terms "duty visits" and "business trips" are used interchangeably in this report.*

- (b) the expenditure decisions should be moderate and conservative, having regard to the circumstances. In other words, the expenditure should not give rise to any perception of extravagance and inappropriateness.

Applying these principles should enable the entities' sensitive expenditure to withstand public scrutiny.

Duty expenses provided by the EOC

4.5 According to the EOC's Human Resources and Administration Manual (HRAM), for the purpose of overseas visits and conferences in relation to the EOC's business, the Chairperson and Board Members will be provided with:

- (a) air passages of business class to travel outside Hong Kong; and
- (b) reasonable expenses incurred on an actual basis, taking into account the purpose and nature of the duty visit. Reasonable expenses may cover hotel accommodation charges, meals (including occasional meals with representatives of other participating authorities and hosting authorities), transportation and all minor incidental expenses. The expenses should be supported by invoices or bills.

4.6 For EOC staff, the overseas duty expenses are covered by way of a subsistence allowance, paid in accordance with rates in the civil service, to cover items such as hotel accommodation, meals and travelling within town. The rates will be reduced under certain defined circumstances, such as where hotel accommodation/meals/transport are provided by the EOC or other parties (Note 10). In addition, air passages of economy class are provided on an actual basis.

Beijing visit (July 2005)

Event particulars

4.7 The EOC began preparing for the Beijing visit in May 2005, and a letter was sent to all Board Members inviting them to join the delegation. Members were informed vide that letter of the following particulars:

Note 10: *In the civil service, the rates of subsistence allowance will not be reduced in respect of meals and transport provided by other parties. Hence, the EOC's practice has the effect of providing allowances less than those applicable to the civil service.*

- (a) organisations to be visited in Beijing included two organisations that represented the interests of women and disabled persons (Note 11), and certain units of the Mainland authorities;
- (b) the expected size of the delegation was 15 to 20 Board Members/senior staff;
- (c) the visit would last for four days, from 12 to 15 July 2005;
- (d) the objective of the visit was to share experience and establish network; and
- (e) the programme contents included experience sharing meetings, visits to special facilities for women and persons with disabilities, and presentation by academics and experts on the recent social, political and economic developments in the Mainland.

4.8 In response to a Board Member's question, it was further explained that the main purpose of the trip was to establish connections and dialogue with the EOC's counterparts, principally, the two organisations representing the interests of women and disabled persons, referred to in paragraph 4.7(a). Visits to the other organisations were of a courtesy nature, which would serve as a prelude to more substantive liaison and work-related communication with other relevant agencies and organisations in the Mainland.

4.9 In the event, a delegation of 18 persons was formed, comprising the Chairperson, 8 Board Members and 9 senior staff. As scheduled, the visit was completed on 15 July 2005.

Analysis of expenditure

4.10 Audit analysis of the relevant payment records revealed that a total expenditure of \$161,000 was incurred, covering air passages, hotel accommodation, meals, transportation and sundry expenses. Table 1 shows a breakdown of the expenditure.

Note 11: *These included: (a) an organisation whose basic functions were to represent and safeguard the rights and interests of women in the Mainland and promote equality between men and women; and (b) another organisation that represented the interests of people with disabilities in the Mainland and helped protect their legitimate rights.*

Table 1
Expenditure for the Beijing visit

Item	Amount (\$)	Remark
(a) Air passages	41,500	The Chairperson, Board Members and staff of the EOC all travelled on economy class.
(b) Hotel accommodation	88,800	Rooms of three different standards were hired: Ambassador Suite for the Chairperson (\$2,880 per night); Executive Room for Board Members (\$1,500 per night); and Standard Room for staff (\$940 per night).
(c) Meals	21,900	These included four hospitality meals (one breakfast, two lunches and one dinner) and a staff lunch.
(d) Transportation and sundries	8,800	Of this amount, \$6,600 was for transportation.
Total	161,000	

Source: EOC records

Post-visit review

4.11 After the Beijing visit, there were media reports criticising the EOC's visit. This prompted the EOC to review the mechanism for dealing with business trips and to consider improvement measures. At a meeting on 8 September 2005, Board Members were informed of the then existing practice, as follows:

Trips involving the Chairperson

- (a) for a trip involving the Chairperson, he himself would consider the purpose, benefits, duration and budget involved of the intended trip and make a decision on whether to go on the trip. Board Members would be informed of the particulars of the visit, before or after the trip, depending on timing;
- (b) the HAB would also be informed of the particulars of the trip at least one week before its commencement. In accordance with the MAA, the Chairperson would also inform the HAB of any arrangements concerning delegation of power during the period, and confirm that the EOC's operation would not be adversely affected during such leave;

Trips involving Board Members

- (c) a trip involving Board Members would be proposed by the Chairperson and Board Members would be informed; and

Trips at the staff level

- (d) all trips at the staff level would be approved by the Chairperson.

4.12 To strengthen the control of business trips, Board Members considered improvement proposals at the meeting. They agreed that, from then onwards, all overseas business trips should be approved by the Board beforehand.

Audit observations and recommendations

4.13 **Overall position.** The size of this delegation (18 persons) and the expenditure involved (\$161,000) could easily give rise to questions from the public who tended to judge sensitive expenditure of public entities by the “moderate and conservative” principle, referred to in paragraph 4.4(b). In Audit’s view, the EOC needs to strictly apply this principle in making sensitive expenditure decisions in future. This will enable the expenditure to withstand public scrutiny.

4.14 **Individual expenditure items.** Regarding the individual items of expenditure, Audit’s observations are as follows:

- (a) **Air passages.** Audit notes that the whole delegation travelled on economy class, including the Chairperson and Board Members who were entitled to business class (see para. 4.5(a)). Hence, Audit considers that this expenditure item met the “moderate and conservative” principle;
- (b) **Hotel accommodation.** Rooms of three different standards were hired. An Ambassador Suite was hired for the Chairperson (at \$2,880 per night). Executive Rooms were hired for Board Members (at \$1,500 per night) and Standard Rooms for staff (at \$940 per night). As Standard Rooms were adequate for meeting basic accommodation needs and were reasonably comfortable, Audit asked why they were not hired for the whole delegation. In response, the EOC informed Audit in February 2009 that the EOC took the view that better accommodation should be provided for the Chairperson and Members commensurate with their positions. Also, as extra working space for meetings was required, a bigger room was arranged for the Chairperson. Audit notes the EOC’s explanations. However, Audit considers that the EOC needs to set

appropriate guidelines (or financial limits) on hotel accommodation for the Chairperson and Board Members, in order to facilitate the application of the “moderate and conservative” principle;

- (c) **Hospitality expenses.** Included in the expenses for meals was the cost of a dinner amounting to \$15,200. Held on 14 July 2005, the dinner was attended by 28 persons. However, from the payment records and supporting vouchers, Audit could not find any information about who attended the dinner, the number of guests participating and their identities (in terms of which entities they represented and their positions in the entities). Furthermore, Audit notes that the average cost for each person was about \$540. Unlike the civil service, which limits the cost per person at \$400 for dinner, the EOC has not laid down any financial limit per person for hospitality expenses involving the Chairperson/Board Members. Audit considers that the EOC needs to set appropriate guidelines (or financial limits) on hospitality expenses for the Chairperson and Board Members, to facilitate the application of the “moderate and conservative” principle; and
- (d) **Staff lunch.** Before departing for Beijing, on 11 July 2005, the Chairperson and eight EOC staff had lunch at a restaurant near the EOC office. The EOC paid for the lunch which amounted to \$540. Audit considers this a private expense and asked the EOC why it was paid out of public funds. In response, the EOC informed Audit in February 2009 that, for this trip, the EOC had not paid subsistence allowance to its staff and, instead, paid for the duty visit expenses on an actual basis, which resulted in cost savings estimated at \$19,500. The lunch expense of \$540 was paid in this context. Audit notes the EOC’s explanation about cost savings. However, as a matter of principle, Audit considers that the EOC needs to review the appropriateness of this expenditure decision and draw up guidelines to disallow similar expenses in future.

4.15 **Improvement measure.** Prior approval is a key control. However, at the time of the Beijing visit, such a control was lacking for business trips involving the Chairperson and Board Members (see para. 4.11(a) to (c)). This shortcoming was subsequently rectified at a September 2005 Board meeting which decided that, from then onwards, all overseas business trips should be approved by the Board beforehand (see para. 4.12). Audit welcomes this improvement and notes that, since then, there has been no duty visit on a similar scale.

4.16 *Macao trips.* Audit's enquiries revealed that the EOC did not seek the Board's prior approval for two business trips to Macao in mid 2007 (Note 12). Audit notes that these were day-trips involving a small amount of expenditure. Given their potential sensitivity, however, Audit considers that the Board's prior approval should be sought even for short inexpensive trips (Note 13).

Audit recommendations

4.17 **To strengthen expenditure control on business trips and for the sake of economy, Audit has recommended that the EOC should:**

Overall position

- (a) **strictly apply the "moderate and conservative" principle in making expenditure decisions on duty visits in future;**

Individual expenditure items

- (b) **consider setting appropriate guidelines (or financial limits) on hotel accommodation and hospitality expenses for the Chairperson and Board Members, to facilitate the application of the "moderate and conservative" principle for such expenses;**
- (c) **in respect of hospitality meals, ensure that there is sufficient information on record about the EOC personnel and guests involved;**
- (d) **review the expenditure decision regarding the staff lunch of 11 July 2005, referred to in paragraph 4.14(d), and draw up guidelines to disallow similar expenses in future; and**

Macao trips

- (e) **ensure that all business trips outside Hong Kong, including short trips to Macao, have the Board's prior approval.**

Note 12: *The Chairperson and three EOC staff visited Macao in May and June 2007, to share experience with two organisations respectively. These were day-trips costing about \$1,200 each, mainly on travelling expenses.*

Note 13: *There was an earlier duty visit to Macao in November 2005, by the Chairperson and an EOC officer. It was a day-trip costing about \$700. Unlike the Macao trips in mid 2007, the Board's prior approval was obtained for the 2005 trip.*

Response from the EOC

4.18 The EOC accepts the audit recommendations. The **Chairperson, EOC** has said that:

Overall position

- (a) networking with overseas counterparts is important for the EOC. It provides a valuable platform for communication and discussion on matters of common interest as well as staff development, which is the key to progress and enhancement of the EOC's work. The visited organisations and government departments are interested in Hong Kong's legislation and enforcement mechanism. The EOC also learns from their practices and advances on protection of individuals' rights;
- (b) the Beijing visit was arranged in July 2005 when all Members had just been newly appointed. The subjects discussed focused on protection of individuals' rights, empowerment issues for women and persons with a disability, as well as ethnic minority policies. Such learning has benefited the EOC's work in the areas of research and policy, complaint handling, promotion and training;
- (c) in preparing the budget for duty visits, the "moderate and conservative" approach was adopted resulting in overall cost savings. This is evident by the achievement of cost savings of \$19,500 in the Beijing visit, referred to in paragraph 4.14(d);

Individual expenditure items

- (d) regarding hotel accommodation and hospitality expenses, the current guideline (introduced in June 2005) for Members and the Chairperson is that reasonable expenses are to be reimbursed on an actual basis, and that subsistence allowance provided for staff is not available to Members and the Chairperson. Such expenses for overseas trips have always been reasonable. The EOC will go one step further to revise the guidelines and set financial limits, with reference to the level of subsistence allowance provided for staff;
- (e) regarding EOC personnel and guests involved in hospitality meals, staff have been reminded to ensure that the relevant information is available on record. A specific note on such requirement has been incorporated into the HRAM;
- (f) regarding the staff lunch of 11 July 2005, the lunch expense of \$540 was incurred in lieu of the subsistence allowance to which staff were entitled for that day. Overall savings were achieved as a result of staff agreeing to forgo their

entitlement to the allowance. For that particular day, if subsistence allowance had been payable, \$4,874 would have been paid to the staff. The EOC acknowledges and respects Audit's perspective in this matter. However, the approach adopted by the EOC was intended to reduce cost as much as possible. Nonetheless, the EOC will review the relevant expenditure decision against the need to reimburse to the staff the relevant subsistence allowance for that day. Guidelines will be drawn up balancing the need to exercise due economy and respect for staff's entitlements; and

Macao trips

- (g) regarding trips to Macao, the Board's covering approval has been sought.

Sweden visit (September 2007)

Event particulars

4.19 In July 2007, Board Members approved a study visit to Sweden to be carried out by the Chairperson and a senior staff. In seeking their approval, Members were informed that:

- (a) a public entity in Sweden (hereinafter referred to as Organisation A — Note 14) invited the Chairperson to visit Sweden on a study visit programme from 3 to 7 September 2007. The programme would cover issues concerning gender equality and disability policy, and would include visits to a number of relevant organisations;
- (b) Organisation A would cover the costs of the Chairperson's stay in Sweden, i.e. accommodation, meals and local transport, and also the cost of an economy class air ticket;
- (c) Sweden was the most advanced jurisdiction in terms of promoting diversity and equal opportunities, and was recognised internationally for their achievements and advancements in those fields. Accordingly, they provided good experience for the EOC in terms of future development in its work and promotion of diversity and equal opportunities;
- (d) the value from a mutually beneficial relationship should reside within the organisation through participation of staff members. Therefore, the Chairperson would propose travelling with a senior staff who could take forward future initiatives arising from overseas visits and networking; and

Note 14: *This is a public agency that promotes interest in Sweden abroad. It seeks to establish cooperation and lasting relations with other countries through active communication and cultural, educational and scientific exchanges.*

- (e) the cost of this study visit including airfare, accommodation, meals and other incidental expenses for the staff and the cost of a business class air ticket for the Chairperson (less the cost of an economy class ticket borne by Organisation A) would be about \$70,000 (Note 15).

Post-visit report

4.20 At a meeting in December 2007, Members received a report on the results of the study trip. The report concluded that Hong Kong and the EOC had much to gain from looking at the Swedish society's commitment to equality and the measures that had been adopted there.

Analysis of expenditure

4.21 According to the payment records, an expenditure of about \$38,700 was incurred. Table 2 shows a breakdown of the expenditure.

Table 2
Expenditure for the Sweden visit

Item	Amount (\$)	Remark
(a) Air passages	23,740	These included the cost of an economy class ticket for the staff, and the cost of a business class ticket for the Chairperson (less the cost of an economy class ticket borne by Organisation A).
(b) Hotel accommodation	—	There was conflicting information over this item of expenditure (see para. 4.25).
(c) Others	14,960	These included the cost of meals taken by the Chairperson, subsistence allowance for the staff and courier charges for the delivery of materials.
Total	38,700	

Source: EOC records

Note 15: *Members were subsequently informed that the estimate was reduced to \$38,000 due to the availability of cheaper air tickets.*

Audit observations and recommendations

Meals taken by the Chairperson

4.22 The duty expenses of the Sweden trip included about \$1,800 for five meals taken by the Chairperson, ranging from \$59 for a lunch to \$698 for a dinner (Note 16). According to the HRAM, meal expenses of the Chairperson are reimbursed on an actual basis, provided they are reasonable. Audit asked whether the meal expenses (e.g. \$698 for the dinner on 5 September 2007) were considered reasonable. In response, in February 2009, the EOC informed Audit that had the Chairperson been permitted to receive subsistence allowance for the visit, he would have received around \$2,400 for the five meals, which would have been more than the actual expenses claimed. Audit notes the EOC's explanations, but considers that the EOC needs to set appropriate guidelines (or financial limits) for such expenses to help staff involved in the payment process determine reasonableness. Such guidelines (or financial limits) will also facilitate the application of the "moderate and conservative" principle.

4.23 For two of the meals (i.e. lunch of \$59 on 1 September and dinner of \$163 on 7 September 2007), Audit could not find any invoices or bills on record to support the payments. This contravened the requirement of the HRAM referred to in paragraph 4.5(b).

Courier charges

4.24 Audit also notes that the EOC visit team used the service of a courier firm to send back to Hong Kong the books and publications received during the visit. Weighing 13 kilograms, these materials were delivered at a cost of \$6,400 to reach the EOC office in three days. Audit could not find any documented reason for not using other more economical means (Note 17).

Note 16: *The five meals were: lunch on 1 September (\$59); dinner on 1 September (\$395); dinner on 5 September (\$698); dinner on 6 September (\$512); and dinner on 7 September (\$163).*

Note 17: *One alternative was for the members of the visit team to carry the materials in their luggage. Another alternative was to use the service of the post office. In response to Audit's enquiry in January 2009, the postal administration of Sweden informed Audit that: (a) under its International Express Service, a parcel weighing 13 kilograms would cost about \$1,800 for delivery to Hong Kong and the delivery time would be about two weekdays; (b) a cheaper alternative was also available at about \$1,200, with a delivery time of about five weekdays; and (c) there was a post office located about 500 metres from the hotel where the EOC visit team was staying.*

Hotel accommodation

4.25 According to the agreement between the EOC and Organisation A, the hotel accommodation charges (estimated at \$14,500) of the EOC staff should be borne by the EOC. In September 2007, the EOC made enquiries with the relevant parties with a view to settling the hotel bill. However, their replies gave conflicting information. Organisation A indicated to the EOC that the hotel had made a “mistake” and “the EOC will not be charged unless the hotel will invoice the EOC”. However, upon enquiry, the hotel told the EOC that the bill had already been settled by Organisation A and asked the EOC to contact Organisation A.

4.26 Given the conflicting information, perhaps the EOC should follow up the matter with Organisation A again with a view to clarifying the issue and, more importantly, meeting its commitment. Furthermore, receiving sponsorship is potentially sensitive for public entities. The EOC needs to keep the Board informed of the development in this matter, for the sake of completeness and transparency.

Hospitality items

4.27 In approving the visit, Board Members were informed that the visit programme would be conducted from 3 to 7 September 2007 (see para. 4.19(a)). Audit notes that there were two additional items in the final programme. One was “Sightseeing in Stockholm with a licensed guide” scheduled for the afternoon of 1 September (Saturday). The other was “Excursion by boat in the archipelago” with the representatives of various parties, scheduled for 2 September (Sunday). In Audit’s view, these hospitality items are potentially sensitive. Audit considers that significant programme changes, in particular the addition of material hospitality items, should have been brought to the Board’s attention, preferably before the commencement of the trip.

Subsistence allowance

4.28 The EOC visit team arrived at Sweden in the morning of 1 September 2007 and departed in the afternoon of 8 September 2007 (i.e. a stay of seven nights). Audit notes that the EOC officer of the visit team was paid subsistence allowance for eight nights, whereas according to the EOC’s practice, only seven nights should have been counted. In Audit’s view, the EOC needs to consider recovering from the officer an amount of \$514, representing one night of subsistence allowance less the relevant deductions (see para. 4.6).

Audit recommendations

4.29 **Audit has recommended that the EOC should:**

Meals taken by the Chairperson

- (a) **consider setting appropriate guidelines (or financial limits) for meals taken by the Chairperson during business trips, to help staff involved in the payment process determine reasonableness, and to facilitate the application of the “moderate and conservative” principle;**
- (b) **ensure that all claims for duty visit expenses are supported by invoices or bills, in accordance with the requirement of the HRAM;**

Courier charges

- (c) **remind those on duty visits to:**
 - (i) **use the most economical means available for the delivery of materials (such as books and publications) received during the visits; and**
 - (ii) **obtain electronic copies as far as possible to minimise delivery cost;**

Hotel accommodation

- (d) **follow up with Organisation A over the issue of hotel accommodation charges with a view to meeting the EOC’s commitment, and keep the Board informed of the development;**

Hospitality items

- (e) **remind those on duty visits to bring to the Board’s attention any significant programme changes, in particular the addition of material hospitality items, preferably before the commencement of the trips; and**

Subsistence allowance

- (f) **consider recovering from the EOC officer concerned the amount of \$514, being one night of subsistence allowance paid in excess of his entitlement.**

Response from the EOC

4.30 The EOC accepts the audit recommendations. The **Chairperson, EOC** has said that:

Meals taken by the Chairperson

- (a) the EOC will revise the existing guidelines applicable to the Chairperson and Members. While they will still be reimbursed on an actual expenditure basis, the level of staff subsistence allowance will be taken as a reference to facilitate the application of the “moderate and conservative” principle;
- (b) the EOC will compile a duty visit manual for the guidance of its staff. The manual will include a reminder about the support of claims by invoices or bills;

Courier charges

- (c) regarding the use of economical means for the delivery of materials obtained during duty visits, the manual mentioned in (b) above will also include a reminder about the matter for staff’s guidance;

Hotel accommodation

- (d) regarding the conflicting information about the hotel accommodation charges, Organisation A has been contacted and its response is awaited. When clarification is received, the Board will be duly informed;

Hospitality items

- (e) regarding the reporting of additional hospitality items, the manual mentioned in (b) above will include a reminder for staff’s guidance; and

Subsistence allowance

- (f) the visit team departed Hong Kong on 31 August 2007 and returned to Hong Kong on 9 September 2007. A miscalculation occurred in counting the number of nights and the sum of \$514 has been returned to the EOC by the officer.

PART 5: SEMINARS

5.1 The EOC sees fostering equal opportunities and improving the public's understanding of anti-discrimination ordinances, as the cornerstone of its work. It organises a wide range of promotional and educational activities including school programmes, workshops and seminars (Note 18). Audit selected the largest event held in 2008 (a Seminar known as "Our Ten Years Under the DDO — Moving Forward, Changing Cultures") for case study, focusing on the budgetary aspect. This PART reports the audit findings and suggests measures for improvement.

Background

5.2 The Seminar was a one-day event. It was held on 24 January 2008 at a cost of about \$320,000. The objective of the Seminar was to review the impact of the DDO since its implementation and outline the way forward to help build a level playing field for people with disabilities.

5.3 International and local experts were invited to share their experience in the development and practice of disability discrimination legislation, and to exchange views on global trends for promoting the well-being and rights of people with disabilities. The Seminar attracted about 250 participants from the disability community, human resources practitioners, service providers and human rights advocates.

Budget deliberations by Board Members

5.4 *September 2007 meeting.* At the Board meeting of 20 September 2007, Members were advised of the proposal to organise the Seminar. Brief information was given on the choice of venue, keynote speakers, tentative programme and initial estimate of expenses (about \$400,000 without breakdown). It was suggested that, in view of the substantial programme content and the tight schedule, lunch be provided for the guests and participants. This could also facilitate networking and informal exchanges among the guests and participants during the lunch break. Board Members endorsed the proposal and agreed that an initial budget of \$400,000 would be set aside for the Seminar.

Note 18: *In 2007-08, the EOC held a variety of promotional and educational activities for members of the public, including: (a) 49 major promotional events; and (b) 662 talks/visits/workshops/seminars/drama performances (with a total audience of 85,000).*

5.5 ***December 2007 meeting.*** While preparation of the Seminar was in progress, Board Members were updated of the development with a more detailed budget breakdown at the Board meeting dated 20 December 2007. The expenditure of the event was then estimated at about \$500,000. A breakdown of the proposed budget, as submitted to Board Members, is reproduced at Appendix D. At the meeting, Board Members critically examined the proposed budget (hereinafter referred to as the “original budget”). They advised against the hiring of a VIP room for use by speakers and panellists because its utilisation was considered doubtful. They also advised that the cost of items such as backdrop and souvenirs should be kept to the minimum.

5.6 ***Budget revised downward.*** Subsequent to the meeting and having considered Members’ advice, the EOC revised the budget to \$350,000, down from \$500,000 (i.e. a 30% reduction), which was circulated to Members on 21 December 2007 for approval. A breakdown of the revised budget is reproduced at Appendix E. The main areas where cost cutting was made are as follows:

- (a) a saving of \$22,770 was achieved by cancelling the VIP room (which was close to the seminar room) originally intended for speakers and panellists;
- (b) the original budget included the cost for the construction of a portable ramp for use by two wheelchair speakers to get on the stage. After consulting the speakers concerned, the EOC decided to use a “marginally acceptable” ramp provided free of charge by the venue management. Together with the deletion of certain backdrop items and set-up costs, this resulted in a saving of \$50,000;
- (c) the original budget included \$15,000 for providing souvenirs for 24 speakers and panellists. In the revised budget, standard gifts were provided instead, the cost of which would be absorbed by EOC office expenditure. This resulted in a budget reduction of \$14,500;
- (d) the original budget included \$40,000 for providing seminar kits for the participants. In the revised budget, standard seminar folders were provided instead. This resulted in a budget reduction of \$32,000; and
- (e) the original budget provided for 300 participants. The number was reduced to 250 in the revised budget. At the estimated cost of \$535 per participant charged by the venue management, this resulted in a budget reduction of \$26,750.

Post-event review

5.7 At a meeting on 20 March 2008, Board Members were informed that the Seminar (see Photograph 1) was well received and rated highly by participants. The actual expenditure incurred was about \$320,000. Members were informed that:

- (a) further reduction in expenses was achieved because speakers from outside Hong Kong were able to arrange travel packages from their respective ends at cheaper rates. The actual charges for the hiring of venue and audio equipment and facilities were also slightly lower than the quotes; and
- (b) it was the usual practice for public organisations to allow certain flexibility in preparing the budget for an event. However, the actual spending of each single dollar should be well accounted for. The EOC was always mindful of this in using public money to deliver its work. Therefore, it had made effort to negotiate with the service vendors for the best available prices in order to keep the expenses to the minimum.

At the meeting, concerns were raised about the negative media reports on the Seminar that seemed to have demoralised the EOC staff present at the Seminar. Views were expressed and suggestions were made that the EOC should make more effort to improve relationship with the media and rally their support.

Photograph 1

Seminar “Our Ten Years Under the DDO — Moving Forward, Changing Cultures” on 24 January 2008



Source: EOC records

Audit observations and recommendations

Need to exercise strict economy

5.8 The original budget was trimmed by 30%, as a result of queries raised by Board Members at the 20 December 2007 meeting. While the effort of Board Members in this regard is notable, Audit is concerned about the large scope for economy that existed in the original budget, because it suggests that the budget preparers themselves did not exercise strict economy in the first place. Audit considers it necessary to remind EOC staff of the need for economy in planning events in future.

Need to identify alternatives

5.9 Board Members need sufficient information to examine and approve budgets effectively. For example, they need to know whether alternatives are available, as well as their relative merits and costs. This applies especially to items that are expensive.

5.10 As a case in point, the original budget included an amount of \$75,000 for backdrop and set-up costs, with a note indicating that it included the construction cost of an extended stage and a ramp for wheelchair speakers. There was no mention as to how much the construction would cost, or whether alternatives were available. It was only upon Members' query, at the December 2007 Board meeting, of the reasonableness of the \$75,000 for backdrop, that they were informed of the availability of a "marginally acceptable" ramp (see Photograph 1) offered free of charge by the venue management (see para. 5.6(b)). In Audit's view, the original budget should have clearly identified this alternative to facilitate Members' consideration.

Need to identify "desirable non-essential" items

5.11 In organising large events, the organisers tend to include in the budgets items that may not be essential but are, nevertheless, considered desirable. These items, added together, may form a significant part of the total costs. Clearly identifying them in the budgets as "desirable non-essential" items (together with their respective costs) will facilitate budget examination and approval. As a good practice, "desirable non-essential" items that involve significant expenditure should not be approved without sufficient and documented justifications.

5.12 In this case, Audit notes that no distinction was made in the budgets between essential and "desirable non-essential" items. The absence of such information, in Audit's view, was not conducive to making informed decisions.

Environmental bags

5.13 Audit examination of payment records revealed that the EOC spent \$12,000 on the procurement of 400 environmental bags for distribution at the Seminar. However, in a stocktaking exercise in December 2008, Audit found that there were 1,700 environmental bags in stock. These bags were procured in October 2006, and have remained in stock since then. Audit is of the view that these bags could have served the purpose of the Seminar (see also paras. 6.7 and 6.8).

5.14 Audit notes that the expenditure for procuring 400 environmental bags was not separately identified in the event budgets. Hence, Board Members were not aware of it.

Audit recommendations

5.15 **To improve the budgetary process for future events and for the sake of economy, Audit has recommended that the EOC should:**

- (a) **remind its staff of the need to exercise strict economy in the planning of future events;**
- (b) **identify available alternatives (together with their relative merits and costs) in event budgets to facilitate Board Members' consideration;**
- (c) **identify "desirable non-essential" items (together with their costs) in the event budgets to help Board Members make informed decisions;**
- (d) **for "desirable non-essential" items that involve significant expenditure, apply the good practice of approving only those items that have sufficient and documented justifications; and**
- (e) **require its staff to use the environmental bags in stock, instead of procuring new ones, for distribution at future seminars.**

Response from the EOC

5.16 The EOC accepts the audit recommendations. The **Chairperson, EOC** has said that:

- (a) regarding the audit recommendations in paragraph 5.15(a) to (d) on the budgetary process, EOC staff prepared a working draft budget for consideration and advice by the Board. Under the SDO, Board Members constitute the governing body of the EOC. In fulfilling their statutory governing responsibilities, and in accordance with the EOC's internal procedures for close scrutiny, Board Members revised the draft budget and trimmed it from \$500,000 to \$350,000. The final expenses were reduced to around \$320,000. The EOC will further formulate guidelines that will take into account Audit's observations; and

- (b) regarding the audit recommendation in paragraph 5.15(e) on environmental bags, the bags procured for the seminars incorporated specific seminar features (see Photograph 2 in para. 6.7) for the convenience of participants and they have all been distributed. Environmental bags without seminar features that are in stock will be used for distribution at future seminars.

PART 6: PROCUREMENT AND MANAGEMENT OF STORES

6.1 According to the Guidelines on the Management and Control of Government Funding for Subvented Organisations, subvented organisations should put in place a procurement policy which is transparent, fair and cost-effective, making references to practices in the Government. This PART examines the procurement and management of stores by the EOC, and suggests measures for improvement in the following areas:

- (a) procurement process of the EOC (paras. 6.2 to 6.22);
- (b) disposal of surplus assets (paras. 6.23 to 6.29); and
- (c) control of library materials (paras. 6.30 to 6.35).

Procurement procedures of the EOC

6.2 The Procurement of Stores and Services Manual (PSSM) of the EOC sets out the guidelines for the procurement of stores and services. According to the PSSM, staff responsible for the purchases shall ensure that the stores and services are purchased in a competitive and equitable way. Specifically, the PSSM stipulates requirements for the following:

- (a) the required number of quotations to be obtained (and the circumstances in which this requirement can be waived);
- (b) the procedures for the invitation of quotations; and
- (c) the maintenance of a suppliers' list.

Appendix F shows the details of these requirements.

Audit observations and recommendation

6.3 Audit examined the 392 purchases made between April 2007 and September 2008, and reviewed the EOC's suppliers' list (as at October 2008). Audit found that:

- (a) in 28 instances, the required number of quotations was not obtained, and there were insufficient documented justifications for not doing so (see Appendix G);

- (b) in 46 instances (representing 34 purchases), procedures for the invitation of suppliers to submit quotations were not followed (see Appendix H); and
- (c) for 59 (out of a total of 89) categories of goods and services, the required minimum number of suppliers on the suppliers' list was not maintained (see Appendix I).

With regard to (a) above, the EOC informed Audit in February 2009 that of the 28 instances, 20 were under circumstances where the quotation requirement could be waived, although the circumstances were not documented.

6.4 **Audit has recommended that the EOC should ensure compliance with the procurement procedures and requirements stipulated in the PSSM in future.**

Response from the EOC

6.5 The EOC accepts the audit recommendation. The **Chairperson, EOC** has said that:

- (a) a briefing has been conducted with the relevant staff to remind them of the need to strictly comply with the PSSM requirements; and
- (b) with regard to the instances identified by Audit, emphasis has been placed on ensuring proper documentation in those circumstances where the relevant procedural requirement can be waived. Emphasis has also been placed on ensuring that the suppliers' list is reviewed and updated on a regular basis.

Audit case studies on purchases

6.6 Audit selected a number of purchases for case studies to ascertain whether there were sufficient justifications for the purchases. The audit findings, which revealed areas for improvement, are reported in paragraphs 6.7 to 6.20.

Audit observations and recommendation

Environmental bags

6.7 In October 2006, the EOC purchased 2,000 environmental bags at a cost of \$16,200 to be distributed as souvenirs to members of the public. Of this quantity, 300 were distributed and 1,700 were kept in stock. Two months later, in December 2006, the EOC purchased another lot of 400 environmental bags at a cost of \$8,400. According to the Purchase Requisition Form (PRF), the new lot had a new design, and would be used for

distribution at a seminar to be held in January 2007. In December 2007, a further lot of 400 were purchased, at a cost of \$12,000, to be distributed at another seminar to be held in January 2008 (see also paras. 5.13 and 5.14). Features of the environmental bags are shown in Photograph 2.

Photograph 2

Environmental bags



(One side printed with Chinese words)



(Another side printed with English words)

First lot
purchased in
October 2006

Second and third lots
purchased in
December 2006 and
December 2007



(Inside)

Source: Photographs taken by Audit in January 2009

6.8 In a stocktaking exercise in December 2008, Audit found that 1,700 environmental bags purchased in the first lot were still in stock. In Audit's view, the EOC should have used these bags instead of purchasing new ones, for distribution at the two aforesaid seminars.

Video conferencing system

6.9 In May 2007, the EOC purchased a video conferencing system at a cost of \$105,500. The system included a main unit in the Conference/Training Room and a movable unit. The movable unit would cater for internal communications at meetings and workshops for participants in different locations.

6.10 The reason for the purchase, according to the PRF, was to provide an alternative channel for the EOC to communicate with overseas or other organisations. In October 2008 (i.e. 18 months later), Audit's verbal enquiries with EOC staff revealed that the system had not been used since its purchase. In response to a further audit enquiry, in an email of December 2008, EOC staff said that the system had been used on two recent occasions in November 2008 in the EOC's training rooms, in connection with work relating to the race law.

6.11 Audit is concerned about the low utilisation of the system since its purchase. In this regard, the EOC has indicated that the acquisition of the equipment was to facilitate communications and training needs arising from the then pending enactment of the Race Discrimination Bill. The EOC expects more usage in 2009 and in the future, particularly in the sharing of experiences with overseas counterparts on cases relating to race discrimination and other anti-discrimination legislation.

Air purifiers

6.12 Between mid 2005 and mid 2007, the EOC purchased 32 air purifiers at a cost of \$78,000. These were purchased in four lots as follows: May 2005 (1 purifier at \$2,300); March 2006 (2 purifiers for two machine rooms at \$19,600); March 2007 (27 purifiers at \$53,000) and June 2007 (2 purifiers at \$3,100). According to the PRFs, the air purifiers were purchased to improve the air quality in the EOC office.

6.13 Audit could not find on record any objective data indicating that the air quality of the EOC office was poor. On the contrary, Audit found in a report by the building management that the air quality (in terms of the level of carbon dioxide and respiratory suspended particulates measured on 22 November 2006) of the EOC office was considered "excellent", except for two rooms the air quality of which was considered "good".

6.14 In response to Audit's enquiries, in February 2009, the EOC informed Audit that:

- (a) some EOC staff had complained about the air quality in the new EOC office (Note 19). Certain staff had contracted upper respiratory infection, and two staff from one unit had pneumonia; and
- (b) in the report of the building management (see para. 6.13), there was no information on the level of pathogenic bacteria or virus which the EOC was aiming to improve.

6.15 Judging from the facts of this case, Audit considers that there was scope for improvement in the EOC's purchases of the air purifiers. The EOC should consider seeking objective and technical advice in similar purchases in future, before incurring a large amount of expenditure.

Staplers

6.16 In March 2006, the EOC purchased 20,000 staplers at a cost of \$40,000 for distribution as souvenirs to members of the public. In March 2007, the EOC purchased another lot of 20,000 staplers also at \$40,000. However, only 4,600 and 6,400 staplers were issued in 2006-07 and 2007-08 respectively. These represented 23% and 32% only of the quantities purchased in the respective years.

6.17 In a stocktaking exercise in December 2008, Audit found that there were still 23,000 staplers in stock. Apparently, the EOC was purchasing much more staplers than its immediate needs. Audit considers that appropriate re-order levels need to be set for these items to prevent excessive purchases.

Extension sockets

6.18 In April 2006, the EOC purchased 50 extension sockets at a cost of \$2,900. According to the PRF, the purchase was needed for replenishment. In the PRF, it was stated that some existing extension sockets had been used for years and were covered with dirt and dust that could not be removed and, hence, new ones would be given to staff in the new office. In May 2008, the EOC purchased another lot of 75 extension sockets at a cost of \$7,000. According to the PRF, the items were out of stock and needed replenishment.

Note 19: *The EOC moved into a new office in March 2006.*

6.19 Seven months later, in a stocktaking exercise in December 2008, Audit found that there were 72 extension sockets in stock. Given that extension sockets are durable items and have a long useful life, Audit has reservations about the need for replenishing the stock and keeping a large stock of the items.

6.20 Furthermore, as stated in the PRF for the purchase in April 2006, one of the reasons for purchasing the extension sockets was to replace some old ones that were “covered with dirt and dust that could not be removed”. Audit asked whether “dirt and dust” constituted sufficient justifications for replacing the old extension sockets. In response, the EOC informed Audit in February 2009 that those units covered with dirt and dust were subsequently cleansed and no unit was in fact disposed of.

Audit recommendation

6.21 **Audit has recommended that the EOC should, taking into account the audit observations mentioned in paragraphs 6.7 to 6.20, ensure in future that the need for an item is clearly established before expenditure is incurred.**

Response from the EOC

6.22 The EOC accepts the audit recommendation. The **Chairperson, EOC** has said that this issue has also been included in the staff briefing mentioned in paragraph 6.5(a). The relevant internal manual will be reviewed to highlight the requirement identified by Audit, incorporating conditions to be fulfilled and criteria to be observed in the procurement process.

Disposal of surplus assets

6.23 The EOC keeps a fixed asset register to record the existence and whereabouts of its assets. The register will be updated upon the purchase of an asset and when it is written off.

Audit observations and recommendation

Conference table, air-conditioner and clock

6.24 Audit’s review of the fixed asset register indicated that assets were occasionally written off. For example, when the EOC moved to a new office in 2006, various assets were written off because they were considered not suitable for the new accommodation. These included a conference table tailor-made in 1996 (at a cost of \$150,000), an

air-conditioner installed in the computer and server room of the old EOC office in early 2005 (at a cost of \$32,000), and a clock (see Photograph 3) purchased in 2003 (at a cost of \$7,200) which, at the time of disposal, was described by EOC staff as “classic and accurate”.

Photograph 3

The clock — for disposal



Source: EOC records

6.25 Audit found that there were no clear audit trails of how these assets were disposed of. In response to this audit observation, in February 2009, the EOC informed Audit that:

- (a) the tailor-made conference table and the air-conditioner in the computer and server room were fixtures that could not be brought to the new office for use. A contractor was employed to dismantle and discard the fixtures in the old office. The contractor had acknowledged the disposal of the fixtures in its invoice although individual items were not listed; and

- (b) regarding the clock, it was written off in order to save maintenance expenditure. Efforts had been made to donate it to other public organisations, but such efforts were in vain. Also, no recycling company was interested in the clock and the EOC was informed that a cost might be incurred for its disposal. Eventually, the clock supplier agreed to collect it at no cost to the EOC, but there was at the time no procedure to require the supplier to acknowledge receipt.

Computer equipment

6.26 Another example of concern to Audit related to the computer equipment written off between November 2007 and April 2008. This included 51 computer workstations, 77 liquid crystal display (LCD) monitors, 21 printers and 2 scanners. Audit notes that:

- (a) some of these items (i.e. 15 computer workstations, 33 LCD monitors and 16 printers) were donated to two non-governmental organisations. As there are official receipts issued by the organisations on EOC records, Audit is satisfied that a clear audit trail exists for these items;
- (b) some items (i.e. 26 computer workstations, 4 LCD monitors, 4 printers and 1 scanner) were given as wreckages to the garbage handler. However, there is no official receipt on record and, hence, no clear audit trail of the disposal; and
- (c) some items (i.e. 10 computer workstations, 40 LCD monitors, 1 printer and 1 scanner) were still kept in the EOC office as at December 2008. However, there was no formal record indicating that they were still in the EOC office. Hence, a clear audit trail did not exist. Furthermore, these items were mostly placed in the open office (see Photograph 4) without adequate security measures, and no senior officer seemed to have been assigned the responsibility for their proper accounting and safe custody.

Photograph 4
Written-off computer workstations and LCD monitors placed in open office



Source: Photographs taken by Audit in December 2008

6.27 Audit expects that when items in the fixed asset register are written off, there should be a clear audit trail of how they are disposed of. This also applies to items in the fixed asset register that may be disposed of as part of the fixtures, such as the tailor-made conference table and the air-conditioner referred to in paragraph 6.25(a). The audit findings in paragraphs 6.24 to 6.26 indicate that there is scope for improvement in this regard.

Audit recommendation

6.28 **Audit has recommended that the EOC should draw up guidelines to ensure that the disposal of assets is properly carried out and documented to provide a clear audit trail. In this regard, reference should be made to the practice of the Government in its disposal of surplus assets.**

Response from the EOC

6.29 The EOC accepts the audit recommendation. The **Chairperson, EOC** has said that:

- (a) reference will be made to the Government's practice and guidelines will be incorporated in the PSSM where appropriate. An officer has been designated to take charge of the disposal of assets, and to ensure that proper records are kept to provide a clear audit trail; and
- (b) regarding the computer equipment mentioned in paragraph 6.26(c), the EOC will endeavour to reassemble the usable computer parts for donation by the end of April 2009, and dispose of the unusable parts.

Control of library materials

6.30 The EOC has a staff library containing 8,000 items of books and audio-visual materials. Some of these are valuable items costing over \$10,000 each (mainly law reports or reference series). EOC staff are eligible to use and borrow the library materials. According to the guidelines issued by the EOC, library materials for lending may be borrowed for a period of three months. Unless already reserved by another officer, a borrowed item may be renewed consecutively with a period of three months for each renewal.

6.31 Lending, renewal and return of the materials are processed by the Language Section of the EOC. The EOC maintains a computerised library system to keep records of books, reference materials and borrowers. All library materials borrowed and returned are updated to the computer system by the Language Section.

Audit observations and recommendations

Loss of library materials

6.32 In December 2008, Audit randomly selected 20 items on the library material list for stocktaking and found that 3 items were missing. Audit also randomly selected 5 items borrowed by EOC staff for stocktaking and found that 2 items were missing. In this connection, Audit notes that there are shortcomings in the EOC's control of library materials, as follows:

- (a) EOC staff are not required to submit borrowing forms or acknowledge receipt of the library materials. There is no documentary proof of materials borrowed by officers; and
- (b) the EOC does not conduct periodical stocktaking of the library materials to check whether there are any missing or damaged items.

Updating of borrowed library materials

6.33 Audit notes that the EOC has not laid down procedures for handling overdue library materials. Audit's review of the loan records (generated from the EOC's computerised library system) indicated that large numbers of library materials were borrowed and held by certain EOC officers for a long period of time. For example, according to the loan records, as at 1 December 2008:

- (a) a staff member had borrowed 258 library items for more than three months. Of these items, 114 (44%) had been held by him for six to eight years;
- (b) another staff member had borrowed 304 library items for more than two years; and
- (c) the borrowing of these library materials had not been renewed since June 2001, and no action had been taken by the Language Section on the overdue materials.

In response to Audit's enquiries, in February 2009, the EOC informed Audit that the library records were inaccurate, and after updating with the correct information, the numbers of borrowed items mentioned in (a) and (b) above were 46 and 3 respectively as at December 2008.

Audit recommendations

6.34 **Audit has recommended that the EOC should take appropriate measures to improve the control of library materials. In particular, the EOC should:**

- (a) **require its staff to acknowledge receipt when borrowing library materials;**
- (b) **conduct periodical stocktaking of the library materials, and take necessary follow-up action on missing items; and**
- (c) **set out procedures for the regular updating of library records and handling of overdue library materials.**

Response from the EOC

6.35 The EOC accepts the audit recommendations. The **Chairperson, EOC** has said that:

- (a) regarding the five missing items mentioned in paragraph 6.32, all of them have subsequently been located;
- (b) regarding the borrowed items mentioned in paragraph 6.33, they were mainly items on loan for common use by staff in a division or unit but put under the name of one particular staff member for the sake of convenience. In response to Audit's enquiry, the EOC conducted a stocktaking exercise and updated the loan records. The numbers of items borrowed by the two staff members concerned have since been recorded correctly which, as at February 2009, were 28 and 1 respectively. To improve the computerised library system in this regard, a new column has been created for recording items on loan to a division or unit; and
- (c) full-scale stocktaking exercises will be conducted in future, on an annual basis, for the regular tracking of the exact locations of all items. The current procedures for borrowing, updating and handling overdue library materials will be reviewed and strengthened.

PART 7: OTHER ADMINISTRATIVE ISSUES

7.1 This PART discusses the following administrative issues of the EOC where Audit has identified scope for improvement:

- (a) life insurance coverage for the Chairperson (paras. 7.2 to 7.8);
- (b) litigation against the EOC by former employees (paras. 7.9 to 7.11); and
- (c) office vehicles (paras. 7.12 to 7.20).

Life insurance coverage for the Chairperson

7.2 According to section 1 of Schedule 6 of the SDO, the Chief Executive of the Hong Kong Special Administrative Region “shall determine the remuneration and the terms and conditions of appointment of the Chairperson”.

7.3 The present Chairperson was appointed by the Chief Executive for a term of five years, with effect from January 2005, in accordance with the terms and conditions set out in a “Memorandum on Terms and Conditions” attached to the appointment letter dated 15 December 2004 issued by the HAB. As stated in the Memorandum, the remuneration package of the Chairperson includes a salary at Point 8 of the Directorate Pay Scale, a cash allowance of \$32,535 per month (Note 20) and a gratuity at 25% of his basic salary. Also, the Chairperson may join the EOC’s medical and dental insurance scheme, and he and his family will be entitled to receive medical and dental treatment thereunder.

7.4 In June 1997, the EOC Board endorsed a proposal for the provision of death and disability benefits to the staff of the EOC. Accordingly, the EOC took a group life insurance scheme for its staff and the Chairperson with an insured sum amounting to 36 months of the basic salary. For the insured period 1 August 2007 to 31 July 2008, the insurance premium paid under this scheme totalled \$238,000. For the period 1 August 2008 to 31 July 2009, the premium paid was \$245,000.

Note 20: *A cash allowance is granted to the Chairperson to substitute for the fringe benefits as compared with an equivalent officer at the Directorate Grade in the civil service.*

7.5 As far as the Chairperson was concerned, for the insured period 1 August 2007 to 31 July 2008, the amount insured was \$7.06 million and the annual premium was \$24,600 (Note 21). For the period 1 August 2008 to 31 July 2009, the amount insured was \$7.27 million and the premium paid was \$13,000 (Note 22).

Audit observations and recommendation

7.6 Unlike other EOC staff whose remunerations are determined by the EOC Board, the Chairperson's remuneration shall be determined by the Chief Executive under section 1 of Schedule 6 of the SDO (see para. 7.2). However, Audit notes that there was no mention about the provision of life insurance coverage in the "Memorandum on Terms and Conditions" attached to the Chairperson's appointment letter dated 15 December 2004 (see para. 7.3).

7.7 **Audit has recommended that the EOC should seek a specific approval from the Administration for the provision of life insurance coverage for the Chairperson.**

Response from the EOC

7.8 The EOC accepts the audit recommendation. The **Chairperson, EOC** has said that the EOC will take follow-up actions with the CMAB.

Litigation against the EOC by former employees

7.9 From EOC records, Audit notes that the following two litigation cases, brought by former employees against the EOC, have significant financial consequences:

- (a) **Case A.** In 1999, a former employee claimed damages and other remedies on grounds of discrimination and harassment on account of disability. The litigation lasted for four years from 1999 to 2002, costing the EOC some \$7 million in terms of legal fees paid to a legal firm for litigation services. In November 2002, the claims were dismissed by the court. In dismissing the

Note 21: *The premium covered the following three components: (a) life; (b) accidental disablement benefit; and (c) total permanent disability. Regarding (c), the insured will be considered as totally and permanently disabled when he has become permanently disabled to the extent of being unable to carry on his usual occupation.*

Note 22: *For the insured period 1 August 2008 to 31 July 2009, the coverage for "total permanent disability" (see item (c) of Note 21) for the Chairperson was discontinued, because he had exceeded the maximum age limit for the benefit. Consequently, the premium charged was only \$13,000, down from \$24,600 in the preceding period.*

claims, the judge remarked that the claims were “completely without merit”, and that had certain disputed items been “handled more sensitively” on the EOC’s side, this “time-wasting exercise would probably never have happened”; and

- (b) **Case B.** Also in 1999, similar litigation against the EOC was brought by another former employee. Up to January 2009, the case had not yet been concluded, and the amount of legal fees incurred by the EOC had accumulated to \$5.8 million.

Audit observations and recommendations

7.10 Litigation can be time-consuming and costly, as illustrated by Cases A and B. **Therefore, Audit has recommended that the EOC should:**

- (a) **ensure that the proceedings are closely monitored in litigation cases involving the EOC as a party, with particular attention being paid to the legal costs incurred; and**
- (b) **conduct post-litigation review as soon as practicable after conclusion of each case, with a view to identifying lessons to be learnt for future reference.**

Response from the EOC

7.11 The EOC accepts the audit recommendations. **The Chairperson, EOC** has said that:

- (a) all cases involving the EOC as a party are handled at the highest level, involving the Chairperson and oversight by the Legal and Complaints Committee on a regular basis. The day-to-day handling of such cases is the responsibility of the highest-ranking legal officer, namely the Chief Legal Counsel;
- (b) Cases A and B were complex and the cost involved was a reflection of that complexity. Nonetheless, these cases have provided a valuable learning opportunity for the EOC on managing complex and lengthy litigation; and
- (c) taking into account Audit’s recommendations, the EOC will explore the feasibility of establishing a formalised process to specify the frequency of review for ongoing complex and time-consuming cases. In the reviews, particular attention will be paid to the case progress, litigation strategy and implications on legal cost. Such review process may also form the basis for conducting post-litigation reviews.

Office vehicles

7.12 Currently, the EOC has two vehicles, as follows:

- (a) a saloon car which is principally used by the Chairperson of the EOC for local travelling. It is also used to carry EOC staff who are required to perform work outside the office; and
- (b) a 7-seater vehicle which is used to carry EOC staff, guests and volunteers for exhibition activities and roadshows. It also serves as a mini-size lorry for delivering goods such as publications, souvenirs and exhibition boards.

7.13 The drivers of the EOC are required to provide a record of their work by completing a vehicle log book. According to the instructions laid down in the cover page of the log book:

- (a) the nature of duty should be stated in the “Purpose” column;
- (b) at the end of each journey, the officer using the car or authorising the journey must sign his name and indicate his post in the “Signature” column; and
- (c) the responsible transport officer must carry out periodical checks to ensure entries in the log book are correct.

Audit observations and recommendations

Vehicle log books

7.14 Audit examination of some 500 journeys recorded in the log books of the 7-seater vehicle, for the period from March to November 2008, revealed that:

- (a) for 113 journeys, the purposes of the journeys were not stated; and
- (b) for 6 journeys, the entries were not signed by the officers using the vehicle or authorising the journeys.

7.15 Similarly, Audit examination of some 900 journeys recorded in the log books of the saloon car, for the period from March to November 2008, revealed that:

- (a) for almost all of the journeys, the purposes of the journeys were not stated;

- (b) for 7 journeys, the entries were not signed by the officers using the car or authorising the journeys; and
- (c) there was no evidence indicating that the log books had been checked by the officer responsible for transport duties.

7.16 **Audit has recommended that the EOC should remind its staff of the need to comply with the instructions relating to vehicle journeys.**

Traffic fines

7.17 In March 2007, the driver of the 7-seater vehicle was caught speeding. He was driving at 62 kilometres per hour against a speed limit of 50 kilometres per hour.

7.18 According to the EOC records, the \$320 fine was paid out of EOC funds on the following grounds:

- (a) the driver's attitude had always been good, and he promised to be careful and to strictly observe speed limits in future; and
- (b) the driver was on his way to find the shortest route to pick up two officers after their business lunch.

7.19 Audit expects the driver, and not the entity, to pay any fines on traffic offences incurred while using a corporate vehicle, unless the fines relate to the condition of the vehicle outside the driver's control. Hence, in Audit's view, the reasons given in paragraph 7.18 might not constitute sufficient justifications for paying the fine out of EOC funds. Audit notes that the amount involved was relatively small. **However, as a matter of principle, Audit has recommended that the EOC should review its decision, taking into account Audit's observations.**

Response from the EOC

7.20 The EOC accepts the audit recommendations. The **Chairperson, EOC** has said that:

Vehicle log books

- (a) the 113 journeys identified by Audit in paragraph 7.14(a) were mostly return trips of officers from meetings and training. For those mentioned in paragraph 7.15(a), they were mainly journeys concerning the engagements of the Chairperson. In response to Audit's recommendation, staff have been reminded of the need to comply with the relevant instructions; and

Traffic fines

- (b) the matter was reviewed and the relevant staff has reimbursed the EOC for the amount of the fine.

PART 8: PERFORMANCE REPORTING IN CONTROLLING OFFICER'S REPORT

8.1 This PART examines the reporting of the EOC's performance in the CMAB's COR, and suggests areas for improvement.

Guidelines on performance measurement

8.2 The Financial Services and the Treasury Bureau has issued guidelines on the performance measures to be included in the CORs. According to the guidelines:

- (a) when developing performance measures, Controlling Officers should focus on "targets" measured preferably in terms of outcome (versus output or input) and should apply the most relevant performance indicators that measure economy, efficiency and cost-effectiveness of the resources deployed; and
- (b) the targets should indicate the extent to which operational objectives are being achieved. They should highlight changes in the cost-effectiveness with which results are being achieved. In this respect, unit cost or productivity indicators should be provided.

Performance reporting of the EOC

8.3 In the 2008-09 COR of the CMAB, a number of performance targets and indicators regarding the EOC are promulgated. Appendix J shows the details.

Audit observations and recommendation

8.4 From Appendix J, it can be seen that:

- (a) there are no outcome indicators. For example, there is no indicator on the number/percentage of complaint cases that are satisfactorily resolved, say, by means of conciliation. In Audit's view, this is an important outcome indicator, given that the EOC has a statutory duty to encourage conciliation between the parties in dispute; and
- (b) there are no unit cost or productivity indicators to measure the economy, efficiency and cost-effectiveness of the resources deployed by the EOC. For example, there is no indicator on the average unit cost, or time taken, to complete a simple or complicated complaint case.

8.5 In this connection, Audit research indicates that some overseas counterparts of the EOC have developed performance indicators that provide more information on outcome and productivity. Appendix K shows examples of such indicators.

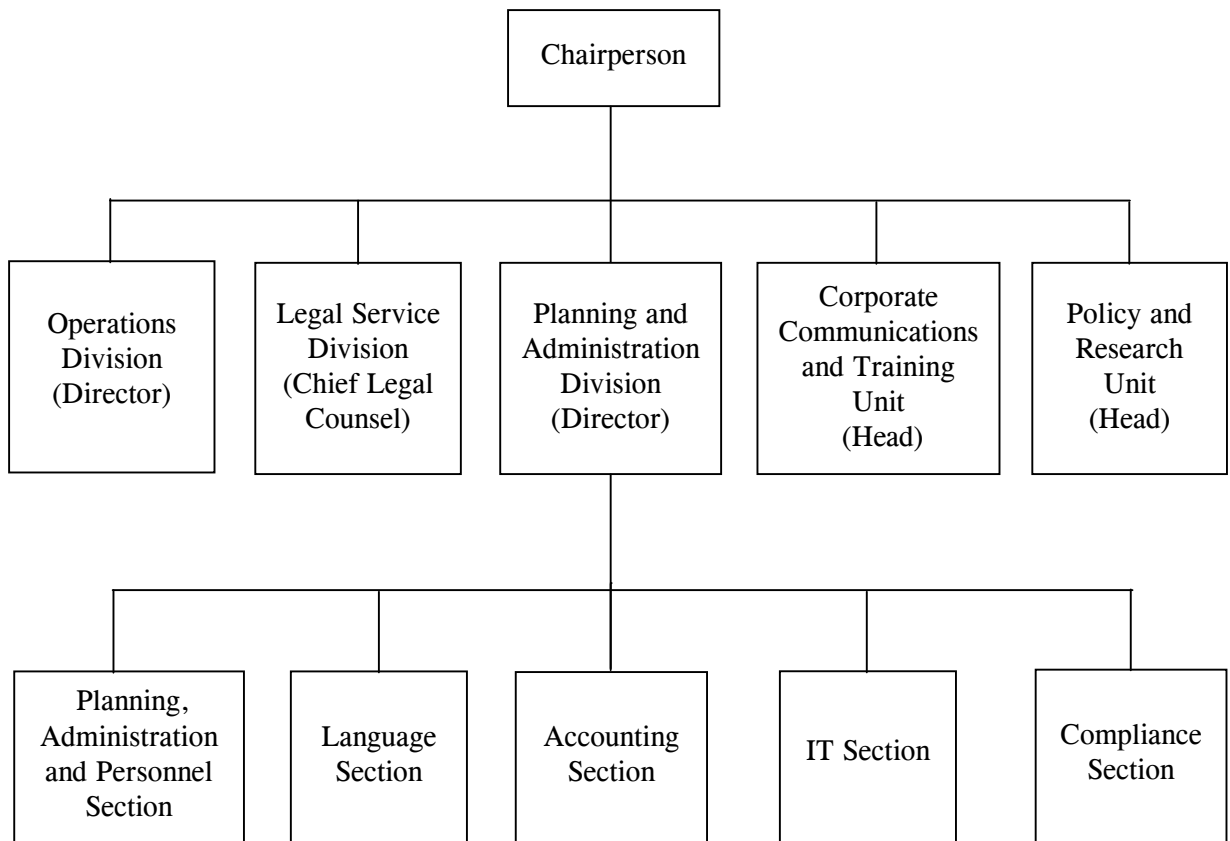
8.6 For the purpose of the CMAB's COR, Audit has *recommended* that the Secretary for Constitutional and Mainland Affairs should, in consultation with the EOC, consider developing more performance targets/indicators to measure outcome and productivity, taking into account the practice of the overseas counterparts of the EOC.

Response from the Administration

8.7 The Secretary for Constitutional and Mainland Affairs accepts the audit recommendation. He has said that:

- (a) the CMAB will work with the EOC to identify new performance targets/indicators to measure the outcome and productivity of the EOC; and
- (b) in doing so, the CMAB will take into account the practice of overseas counterparts of the EOC, the targets/indicators as suggested by Audit, and the circumstances and actual operation of the EOC.

**Equal Opportunities Commission
Organisation chart
(1 December 2008)**



Source: EOC records

The EOC's Committees and their main functions

1. Administration and Finance Committee

It is mainly responsible for reviewing draft annual estimates of expenditure, the MAA, and the staffing and administrative policies of the EOC.

2. Community Participation and Publicity Committee

It is mainly responsible for advising measures to foster community participation in promoting equal opportunities and eliminating discrimination.

3. Legal and Complaints Committee

It is mainly responsible for recommending to the EOC rules to be made under the relevant legislation, and considering legal assistance to be granted to applicants.

4. Public Education and Research Committee

It is mainly responsible for advising on measures to be taken in conducting public education on issues of concern to the EOC, and considering and approving research projects of the EOC.

Source: EOC records

Appendix C
(para. 2.15 refers)

**Attendance rates of Members at Board/Committee meetings
(2002-03 to 2008-09)**

Year	Board meeting	Administration and Finance Committee meeting	Community Participation and Publicity Committee meeting	Legal and Complaints Committee meeting	Public Education and Research Committee meeting
2002-03	71%	76%	70%	62%	52%
2003-04	78%	91%	59%	65%	74%
2004-05	69%	73%	70%	63%	64%
2005-06	68%	91%	72%	63%	67%
2006-07	84%	70%	71%	69%	64%
2007-08	64%	74%	81%	62%	61%
2008-09 (up to 30.9.2008)	71%	68%	67%	60%	57%
Average	72%	78%	70%	63%	63%

Source: Audit analysis of EOC records

Original budget for the Seminar

(For discussion by Board Members on 20 December 2007)

Item	Subtotal (\$)	Total (\$)
Flight and accommodation for speakers <i>Speaker from Australia</i> – Round-trip Sydney/Hong Kong/Sydney (<i>economy class</i>) – Accommodation at 4-star hotel ($\$1,243 \times 3$ nights) – Subsistence allowance ($\$1,150 \times 3$ days) <i>Speaker from the Mainland</i> – Round-trip Beijing/Hong Kong/Beijing (<i>economy class</i>) – Accommodation at 4-star hotel ($\$1,243 \times 3$ nights) – Subsistence allowance ($\$1,150 \times 3$ days)	15,249 3,729 3,450 6,033 3,729 3,450	35,640
Travelling and accommodation for Guangzhou participants – Round-trip Guangzhou/Hong Kong/Guangzhou (through-train) ($\$460 \times 10$ persons) – Accommodation (shared room) ($\$1,000 \times 2$ nights $\times 6$ rooms) – Subsistence allowance ($\$100 \times 3$ days $\times 10$ persons)	4,600 12,000 3,000	19,600
Hire of venue – Seminar room (Room 401) for set-up on 23 January 2008 – VIP room for speakers (Room 402) on 24 January 2008 – Meal package (Rooms 401 and 601) on 24 January 2008 (<i>including rental charge, lunch and 2 servings of tea/coffee + refreshment and 1 welcome tea/coffee: $\\$535 \times 300$ persons</i>)	23,832 22,770 160,500	207,102
Backdrop (Rooms 401 and 601) and set-up <i>(including construction of an extended stage and a ramp for wheelchair speakers)</i>	75,000	75,000
Souvenirs <i>(3 for VIPs and 21 for speakers/panellists)</i>	15,000	15,000

Appendix D
(Cont'd)
(para. 5.5 refers)

Item	Subtotal (\$)	Total (\$)
Seminar kits <i>(including printing of presentation materials/papers, production of Braille copies of conference materials, badges for participants, note pads, etc.)</i>	40,000	40,000
Interpretation services – Simultaneous interpreters – Sign interpreters – Simultaneous interpretation equipment <i>(hired from the venue management)</i>	32,000 3,000 11,700	46,700
Audio and visual equipment <i>(hired from the venue management)</i>	22,000	22,000
Photography <i>(including photo taking and video shooting)</i>	8,000	8,000
Miscellaneous and contingency	25,000	25,000
Total		494,042
	Say	500,000

* *Three nights accommodation is offered to speakers from Australia and Beijing as they may arrive by evening flights.*

* *Expenses on hire of venue, backdrop/set-up and printing of materials are estimated on the basis of the actual expenditure on similar items for the Gender Equity Seminar held on 19 January 2007, with an increase of 10%-15% for services/equipment hired from the venue management.*

Source: EOC records

Appendix E
(Cont'd)
(para. 5.6 refers)

Item	Subtotal (\$)	Total (\$)
Interpretation services		
– Simultaneous interpreters	32,000	
– Sign interpreters	3,000	
– Simultaneous interpretation equipment (<i>hired from the venue management</i>)	11,700	
		46,700
Audio and visual equipment (<i>hired from the venue management</i>)	22,000	
		22,000
Photography (<i>including photo taking and video shooting</i>)	8,000	
		8,000
Miscellaneous and contingency (<i>amount to 5% of the total expenses of the above items</i>)	16,525	
		16,525
	Total	347,027
	Say	350,000

Highlights of the revised estimate:

1. Cancellation of Room 402 subject to consent by the venue management.
2. Additional cost for sound equipment at Room 601 for luncheon speech.
3. Deletion of backdrop and set-up for Room 601 and entrance to Room 401.
4. Use of temporary ramp provided by the venue management instead of constructing a 1:12 ramp by outside contractor.
5. Souvenirs for guests will be changed to standard gifts to be absorbed by the EOC office. Expenditure includes printing of names only.
6. Standard seminar folders to be provided by the EOC office. Papers and presentation materials to be printed by the EOC office. Deletion of expenditure items for badges and note pads, etc.

Source: EOC records

Requirements stipulated in the Procurement of Stores and Services Manual

(1) Quotation

Purchase of stores and services of a value	Requirement
Over \$1,000 and not exceeding \$50,000	At least 3 verbal or written quotations
Over \$50,000 and not exceeding \$500,000	At least 3 written quotations
Over \$500,000 and not exceeding \$1.3 million	At least 5 written quotations
Over \$1.3 million	Tender procedures should be followed

The requirement for obtaining the required number of quotations can be waived under the following special situations:

- (a) when the goods or service provider is a sole supplier;
- (b) the need for compatibility or interchangeability of existing equipment or services restricting the number of available suppliers;
- (c) when the goods or services are required to meet emergencies (the reason should be stated on the procurement orders); or
- (d) when the required consulting service is in limited supply.

(2) Invitation of quotations

The EOC maintains a suppliers' list for different categories of goods or services. Quotations should be sought from the suppliers on the list in rotation as follows:

- (a) the selected supplier of a previous transaction is invited to submit quotations again in the next procurement if no unsatisfactory comments are recorded for the goods or services procured in the previous order;
- (b) the two or more suppliers not selected in the previous transaction are excluded from the next procurement;
- (c) two or more suppliers from the same category on the suppliers' list are invited in rotation to submit their quotations; and
- (d) in case suppliers fail to submit their quotations by the closing date, the suppliers next on the suppliers' list are invited to submit quotations.

(3) Maintenance of the suppliers' list

To ensure competitiveness in obtaining quotations from qualified suppliers, the EOC aims to maintain a minimum of 10 suppliers per category of goods or services on a suppliers' list. If the desired minimum of 10 suppliers cannot be achieved for certain categories:

- (a) it should be brought to the Director (Planning and Administration)'s attention with explanation for endorsement; and
- (b) suitable suppliers may be included into the suppliers' list after they are evaluated based on a set of criteria and endorsed by responsible officers.

The performance of suppliers is evaluated by the EOC after the goods or services are delivered. In addition, an annual appraisal of suppliers is carried out. Any suppliers who cannot pass the annual appraisal will be deleted from the suppliers' list and put on a suspension list of unsatisfactory suppliers. This can avoid the problem of the same supplier being introduced into the suppliers' list again at a later date.

Source: EOC records

Instances of non-compliance with quotation requirements

In the following 28 instances, only single or two quotation(s), instead of at least three, were obtained from the suppliers:

- (a) ***Single quotation from the selected suppliers of a previous transaction.*** In 18 instances, only the selected suppliers of a previous transaction were invited to submit quotations. However, the selected suppliers were not sole suppliers;
- (b) ***Single or two quotation(s) due to urgency.*** In 3 instances, only single or two quotation(s) were obtained due to urgency. However, the reasons for the urgency were not clearly stated in the procurement orders;
- (c) ***Single quotation without explanation.*** In 1 instance, there was no explanation for the single quotation; and
- (d) ***Suppliers failed to submit quotations.*** In 6 instances, only two quotations were obtained because some suppliers failed to submit their quotations. However, no action was taken by the EOC to invite the suppliers next on the suppliers' list to submit quotations.

Source: EOC records and Audit analysis

Instances of non-compliance with the supply procedures

In the following 46 instances, suppliers were not invited in rotation to submit quotations:

- (a) in 9 instances, the selected suppliers of a previous transaction were not invited to submit their quotations;
- (b) in 20 instances, the suppliers not selected in the previous transactions were not excluded from the procurement but were invited to submit quotations; and
- (c) in 17 instances, the suppliers invited to submit quotations were not on the suppliers' list. In 4 of these instances, quotations were sought from the same supplier which had been removed from the list.

Source: EOC records and Audit analysis

Minimum number of suppliers on the suppliers' list not maintained

As at October 2008:

- (a) the number of suppliers in 59 (66%) out of the 89 categories on the suppliers' list was less than the required minimum of 10. However, there was no evidence to indicate that the lack of 10 suppliers in these categories had been brought to the Director (Planning and Administration)'s attention; and
- (b) at least 37 (Note) of the 59 categories involved common goods and services which could be provided by a large number of suppliers.

Source: EOC records and Audit analysis

Note: Examples include the supply of cartons, packing service and shredding service.

Performance targets/indicators of the EOC

(A) Performance targets

Service standard	Target
(1) Interview a walk-in enquirer at the EOC office within 30 minutes	95%
(2) Reply to written enquiries on simple issues within 5 working days	95%
(3) Reply to written enquiries on complex issues within 14 working days	95%
(4) Conclude a complaint case within 6 months	75%

(B) Performance indicators

- (1) Number of enquiries received
- (2) Number of visits to the EOC website
- (3) Number of complaint cases received and handled under the SDO, the DDO and the FSDO
- (4) Number of active complaint cases at year end under the SDO, the DDO and the FSDO
- (5) Number of complaints where legal assistance was granted under the SDO, the DDO and the FSDO
- (6) Number of complaints taken to court under the SDO, the DDO and the FSDO
- (7) Number of self-initiated investigation cases processed, resolved and taken to court
- (8) Number of major promotional events
- (9) Number of talks/visits/workshops/seminars and drama performances (audience)
- (10) Number of copies of code of practice issued
- (11) Hit rates of on-line resource centre

Source: CMAB's 2008-09 COR

Overseas examples of performance indicators

- (A) ***Public awareness.*** Indicators include the public's level of awareness and views of the relevant Acts and equal opportunity, and employers' and employees' acceptance of equal opportunity issues in workplaces.

- (B) ***Conciliation.*** Indicators include the percentage of complaints to be conciliated, the percentage of complaints settled through conciliation, and the average time taken to reach a conciliation.

- (C) ***Provision of information and advice.*** Indicators include the average cost of delivering training courses/seminars, answering enquiries, providing advice and producing publications.

- (D) ***Customer satisfaction.*** Indicators include the percentage of the parties involved in the complaints to be satisfied with the service they receive.

Source: Audit research

Acronyms and abbreviations

Audit	Audit Commission
CEO	Chief Executive Officer
CEOO	Chief Equal Opportunities Officer
CMAB	Constitutional and Mainland Affairs Bureau
COR	Controlling Officer's Report
DDO	Disability Discrimination Ordinance
EOC	Equal Opportunities Commission
FSDO	Family Status Discrimination Ordinance
HAB	Home Affairs Bureau
HRAM	Human Resources and Administration Manual
IOPM	Internal Operating Procedures Manual
LCD	Liquid crystal display
LegCo	Legislative Council
MAA	Memorandum of Administrative Arrangements
NGPM	Notes for Guidance for Members on Procedures for Meetings and Related Matters
PRF	Purchase Requisition Form
PSSM	Procurement of Stores and Services Manual
RDO	Race Discrimination Ordinance
SDO	Sex Discrimination Ordinance