

Director of Bureau : Secretary for Constitutional and Mainland Affairs

Session No. : 8

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**Replies to supplementary written questions raised by Finance Committee
Members in
examining the Estimates of Expenditure 2009-10**

**Director of Bureau : Secretary for Constitutional and Mainland Affairs
Session No. : 8**

Reply Serial No.	Question Serial No.	Name of Member	Head	Programme
S-CMAB01	S035	Hon. LAU Wai-hing, Emily	144	Subvention: Equal Opportunities Commission and Office of the Privacy Commissioner for Personal Data
S-CMAB02	S036	Hon. LAU Wai-hing, Emily	144	Rights of the Individual
S-CMAB03	S037	Hon. LAU Wai-hing, Emily	144	Director of Bureau's Office Constitutional and Mainland Affairs Mainland Offices Rights of the Individual
S-CMAB04	S038	Hon. LAU Wai-hing, Emily	144	Subvention: Equal Opportunities Commission and Office of the Privacy Commissioner for Personal Data
S-CMAB05	S039	Hon. LAU Wai-hing, Emily	144	Subvention: Equal Opportunities Commission and Office of the Privacy Commissioner for Personal Data
S-CMAB06	S040	Hon. LAU Wai-hing, Emily	144	Subvention: Equal Opportunities Commission and Office of the Privacy Commissioner for Personal Data
S-CMAB07	SV009	Hon. WONG Kwok-hing	144	Mainland Offices
S-CMAB08	SV010	Hon. TAM Yiu-chung	144	Mainland Offices
S-CMAB09	SV011	Hon. EU Yuet-mee, Audrey	144	Constitutional and Mainland Affairs
S-CMAB10	SV012	Hon. LAU Sau-shing, Patrick	703	

Examination of Estimates of Expenditure 2009-10
**CONTROLLING OFFICER'S REPLY TO
SUPPLEMENTARY QUESTION**

Reply Serial No.

S-CMAB01

Question Serial No.

S035

Head : 144 GS: Constitutional and
Mainland Affairs Bureau

Subhead (No. & title) :

Programme : (5) Subvention: Equal Opportunities Commission and Office of the Privacy Commissioner for Personal Data

Controlling Officer : Permanent Secretary for Constitutional and Mainland Affairs

Director of Bureau : Secretary for Constitutional and Mainland Affairs

Question : According to the reply to Q1653, the Equal Opportunities Commission (EOC) had initiated investigation into 13 situations involving government departments. For some of these cases, the departments concerned have planned to make improvements, but for some other cases, including the two related to Sex Discrimination Ordinance and the two related to Disability Discrimination Ordinance where the Hospital Authority and Transport and Housing Bureau were involved, no planned improvements were mentioned. Have the department and bureau concerned refused to make improvements? If yes, what are the reasons?

Asked by : Hon. LAU Wai-hing, Emily

Reply :

The four cases in question are recapped at the Annex.

2. In the first three cases at the Annex, actions have been taken and / or explanations have been provided by the organisations concerned and the Equal Opportunities Commission (EOC) has completed the investigation. The details are as follows -

(a) for the case on different physical tests for recruiting male and female applicants for the Civil Aid Service (CAS), EOC gave advice to CAS that such difference has to be justified by genuine occupational need. In response, CAS has provided the EOC with the outcome of overseas scientific researches and operational experience on such a need;

(b) the case on Leisure and Cultural Services Department (LCSD) concerns the provision of changing rooms for female life guards in beaches. Arising from the case and the related complaint, LCSD has agreed to make appropriate arrangements to ensure sufficient facilities in beaches where female life guards are assigned to. The complainant has also withdrawn the complaint; and

(c) for the case on the misuse of disabled toilets, the Hospital Authority has explained that disabled toilets were available and accessible nearby. Appropriate directional signs were made to the alternative toilets and obsolete signage removed.

3. On the other hand, the EOC will continue to monitor developments on the remaining case concerning the granting of concessionary fare to persons with disability, which is being discussed at the Legislative Council.

Signature	_____
Name in block letters	ARTHUR HO
Post Title	Permanent Secretary for Constitutional and Mainland Affairs (Acting)
Date	27 March 2009

Ordinance	Nature	Department / public body concerned	Findings and follow-up actions
Sex Discrimination Ordinance (SDO)	Recruitment: different physical tests for male and female applicants	Civil Aid Service	Advice given on the relevant provisions relating to employment under SDO.
	Insufficient changing rooms for female staff	Leisure and Cultural Services Department	Became a formal complaint. Department advised to improve facilities.
Disability Discrimination Ordinance (DDO)	Disabled toilets misused	Hospital Authority	Advised the Authority to ensure proper use of disabled toilet.
	Concessionary fare for Persons with Disability (PWDs)	Transport and Housing Bureau	Discussions took place at Legislative Council. The EOC is monitoring development.

Examination of Estimates of Expenditure 2009-10
**CONTROLLING OFFICER'S REPLY TO
SUPPLEMENTARY QUESTION**

Reply Serial No.

S-CMAB02

Question Serial No.

S036

Head : 144 GS: Constitutional and
Mainland Affairs Bureau

Subhead (No. & title) :

Programme : (4) Rights of the Individual

Controlling Officer : Permanent Secretary for Constitutional and Mainland Affairs

Director of Bureau : Secretary for Constitutional and Mainland Affairs

Question : According to the reply to Q1655, \$16 million was earmarked for operating expenses of four regional support service centres for ethnic minorities and \$8 million for subsidising the start-up cost in the 2008-09 Estimates released in March to support ethnic minorities. However, according to the reply to Q1561, invitation for non-governmental organisations (NGOs) to apply for funding was only made in December 2008. After a lapse of one year since the release of the Estimates, the NGOs that are going to operate the centres still remain unknown. Please advise on what has happened.

Asked by : Hon. LAU Wai-hing, Emily

Reply :

As mentioned in our reply to Q1655, the statement made in the 2008-09 budget speech about earmarking \$16 million for operating expenses of the four centres and \$8 million to subsidise the start-up cost conveyed our policy of establishing these four centres to support ethnic minorities.

2. Following the announcement of the initiative, we have drawn up proposals for the establishment of the four centres and consulted representatives of ethnic minorities and related organisations at meetings of the Committee on the Promotion of Racial Harmony (CPRH) and the Ethnic Minorities Forum (EMF) in May 2008 and June 2008 respectively.

3. Taking into account views from members of the CPRH and EMF, we have drawn up detailed arrangements in consultation with relevant government bureaux and departments and sought comments from members of the CPRH and EMF at meetings in October 2008. We have also consulted the Legislative Council Panel on Constitutional Affairs before finalising them for inviting non-governmental organisations (NGOs) to apply for funding on 1 December 2008.

4. The application period closed on 12 January 2009, and we have received a total of 22 applications from 16 NGOs. We have examined the proposals very carefully and interviewed relevant applicants.

5. We are now making arrangements for announcing the results of the selection very shortly. These centres are expected to commence operation in mid-2009.

Signature	_____
Name in block letters	ARTHUR HO
Post Title	Permanent Secretary for Constitutional and Mainland Affairs (Acting)
Date	27 March 2009

Examination of Estimates of Expenditure 2009-10
**CONTROLLING OFFICER'S REPLY TO
SUPPLEMENTARY QUESTION**

Reply Serial No.

S-CMAB03

Question Serial No.

S037

Head : 144 GS: Constitutional and
Mainland Affairs Bureau

Subhead (No. & title) :

Programme : (1) Director of Bureau's Office
(2) Constitutional and Mainland Affairs
(3) Mainland Offices
(4) Rights of the Individual

Controlling Officer : Permanent Secretary for Constitutional and Mainland Affairs

Director of Bureau : Secretary for Constitutional and Mainland Affairs

Question : Reply to Q1657 refers. The number of posts in the Constitutional and Mainland Affairs Bureau will increase from 44 in 2006 to 132 in 2010. The 22 posts newly created in 2008-09 are responsible for promoting the Basic Law, providing secretarial support to the Under Secretary for Constitutional and Mainland Affairs, etc. Why does it need 22 posts to share such duties?

Asked by : Hon. LAU Wai-hing, Emily

Reply :

Of the 22 posts created in 2008-09, 17 were transferred from the Beijing Office which was incorporated into the Constitutional and Mainland Affairs Bureau with effect from 2008-09. The remaining posts are responsible for preparing the Hong Kong Special Administrative Region's participation in the World Exposition 2010 Shanghai China, enhancing promotion of the Basic Law, taking forward the Law Reform Commission reports, providing support for constitutional development and providing secretarial support to the Under Secretary for Constitutional and Mainland Affairs respectively.

Signature _____

Name in block letters _____ **ARTHUR HO** _____

Post Title _____ **Permanent Secretary for Constitutional
and Mainland Affairs (Acting)** _____

Date _____ **27 March 2009** _____

Examination of Estimates of Expenditure 2009-10
**CONTROLLING OFFICER'S REPLY TO
SUPPLEMENTARY QUESTION**

Reply Serial No.

S-CMAB04

Question Serial No.

S038

Head : 144 GS: Constitutional and
Mainland Affairs Bureau

Subhead (No. & title) :

Programme : (5) Subvention: Equal Opportunities Commission and Office of the
Privacy Commissioner for Personal Data

Controlling Officer : Permanent Secretary for Constitutional and Mainland Affairs

Director of Bureau : Secretary for Constitutional and Mainland Affairs

Question : According to the replies to Q1660 and Q1661, the Office of the Privacy Commissioner for Personal Data (PCPD) had received 946 complaint cases during 2008. Only 12 staff members were responsible for conducting investigations into these complaints and 47 cases were completed beyond 180 days. On the other hand, there were only eight officers responsible for conducting self-initiated investigations, inspections and processing applications for consent to carry out matching procedures. Of these officers, only four of them were responsible for carrying out self-initiated investigations. Would the Administration strengthen PCPD's manpower for discharging such duties?

Asked by : Hon. LAU Wai-hing, Emily

Reply :

The Government is firmly committed to the protection of personal data privacy and will strive to provide resources at an appropriate level to support the Office of the Privacy Commissioner for Personal Data (PCPD) in the effective enforcement of the Personal Data (Privacy) Ordinance (PDPO). Since 2008-09, we have, on the following occasions, provided additional resources for the PCPD to strengthen its enforcement team :

- (a) the creation of three posts on a recurrent basis in 2008-09, with a recurrent funding of \$1.8 million;
- (b) an additional one-off allocation of \$2.4 million to fund the full-year cost of two additional posts in 2008-09, following an in-year review of the resource requirements of the PCPD; and

- (c) the creation of five posts (including one post to provide information technology support in enforcement work) on a recurrent basis in 2009-10, with a recurrent funding of \$5 million.

2. With the additional recurrent funding in 2008-09 and that proposed in 2009-10, the PCPD's enforcement team will be strengthened by eight posts in total on a recurrent basis. We will keep under review the PCPD's resource requirements and consider if more resources have to be provided to the PCPD in future to address its operational needs.

3. With regard to the observation that 47 of the 894 completed complaint cases in 2008 were closed beyond 180 days, we understand from the PCPD that more time was needed to complete these cases due to a number of factors, including :

- (a) the longer time taken by the parties concerned to respond to questions/comments posed by the PCPD;
- (b) the need to seek statements/clarifications from relevant parties in complicated cases; and
- (c) the need to collect independent evidence.

Signature	_____
Name in block letters	ARTHUR HO
Post Title	Permanent Secretary for Constitutional and Mainland Affairs (Acting)
Date	27 March 2009

Examination of Estimates of Expenditure 2009-10
**CONTROLLING OFFICER'S REPLY TO
SUPPLEMENTARY QUESTION**

Reply Serial No.

S-CMAB05

Question Serial No.

S039

Head : 144 GS: Constitutional and
Mainland Affairs Bureau

Subhead (No. & title) :

Programme : (5) Subvention: Equal Opportunities Commission and Office of the Privacy Commissioner for Personal Data

Controlling Officer : Permanent Secretary for Constitutional and Mainland Affairs

Director of Bureau : Secretary for Constitutional and Mainland Affairs

Question : Reply to Q1564 refers. The Race Discrimination Ordinance (RDO) which has been passed is expected to be fully implemented in mid-2009. Although provision has been earmarked for the Equal Opportunities Commission (EOC) to implement the RDO, the level of provision to be granted to EOC is yet to be decided. It is mentioned in the reply that "Our intention is to review together with the EOC their requirement for additional resources to implement the RDO", the Bureau should not get the EOC under its control by laying hold of the resources. Would the Bureau inform the Legislative Council (LegCo) of the proposed level of provision to the EOC when the Appropriation Bill is presented to the LegCo for consideration and approval?

Asked by : Hon. LAU Wai-hing, Emily

Reply :

The Race Discrimination Ordinance (RDO) is expected to commence full operation around mid-2009. As mentioned in our reply to Q1564, we have set aside an amount of around \$4 million to facilitate the enforcement of the RDO, and we will review together with the Equal Opportunities Commission (EOC), over the next few months, their requirement for additional resources to implement the RDO. Since we have to take into account the progress of implementation of the RDO and the needs of the EOC for additional resources, we are not in a position to determine the level of allocation at this stage.

2. The EOC is an independent statutory body with its power and function clearly stipulated in the relevant legislation. We fully respect this in dealing with the allocation of resources to the EOC.

Signature	_____
Name in block letters	ARTHUR HO
Post Title	Permanent Secretary for Constitutional and Mainland Affairs (Acting)
Date	27 March 2009

Examination of Estimates of Expenditure 2009-10
**CONTROLLING OFFICER'S REPLY TO
SUPPLEMENTARY QUESTION**

Reply Serial No.

S-CMAB06

Question Serial No.

S040

Head : 144 GS: Constitutional and
Mainland Affairs Bureau

Subhead (No. & title) :

Programme : (5) Subvention: Equal Opportunities Commission and Office of the
Privacy Commissioner for Personal Data

Controlling Officer : Permanent Secretary for Constitutional and Mainland Affairs

Director of Bureau : Secretary for Constitutional and Mainland Affairs

Question : According to the reply to Q1566, the Equal Opportunities Commission (EOC) has assisted in bringing six complaint cases to court during 2008-09. What is the number of cases that legal assistance is sought but is turned down by the EOC? What are the reasons for the refusal?

Asked by : Hon. LAU Wai-hing, Emily

Reply :

In 2008-09 (as at 24 March 2009), the Equal Opportunities Commission (EOC) has declined 25 applications for legal assistance. In all except one of these cases, the reason was that the evidence available was not sufficiently strong to bring proceedings. In the other case, in making the decision, the EOC had regard to the attitude and behaviour of the party involved and the fact that the case did not raise a question of principle. In all these cases, the EOC had offered conciliation services to help the parties involved to pursue their complaints.

Signature _____

Name in block letters _____

ARTHUR HO

Post Title _____

Permanent Secretary for Constitutional
and Mainland Affairs (Acting)

Date _____

27 March 2009

Examination of Estimates of Expenditure 2009-10
**CONTROLLING OFFICER'S REPLY TO
SUPPLEMENTARY QUESTION**

Reply Serial No.

S-CMAB07

Question Serial No.

SV009

Head : 144 GS: Constitutional and
Mainland Affairs Bureau

Subhead (No. & title) :

Programme : (3) Mainland Offices

Controlling Officer : Permanent Secretary for Constitutional and Mainland Affairs

Director of Bureau : Secretary for Constitutional and Mainland Affairs

Question : In relation to Hon. WONG Kwok-hing's concern about assistance provided to cases of Mainland-HKSAR families seeking to settle in Hong Kong for family reunion (including those applying for One-Way Permits and those holding Exit-Entry Permits), the Administration was requested to provide further information on the number of these cases handled by the Mainland Offices in 2008.

Asked by : Hon. WONG Kwok-hing

Reply :

Of the 267 requests for assistance handled by the Mainland Offices in 2008 (other than those relating to immigration and personal safety matters), there was one case concerning application for One-Way Permit for family reunion in Hong Kong.

Signature _____

Name in block letters _____

ARTHUR HO

Post Title _____

Permanent Secretary for Constitutional
and Mainland Affairs (Acting)

Date _____

27 March 2009

Examination of Estimates of Expenditure 2009-10
**CONTROLLING OFFICER'S REPLY TO
SUPPLEMENTARY QUESTION**

Reply Serial No.

S-CMAB08

Question Serial No.

SV010

Head : 144 GS: Constitutional and
Mainland Affairs Bureau

Subhead (No. & title) :

Programme : (3) Mainland Offices

Controlling Officer : Permanent Secretary for Constitutional and Mainland Affairs

Director of Bureau : Secretary for Constitutional and Mainland Affairs

Question : At the request of the Hon TAM Yiu-chung, the Administration agreed to provide information on the categories of duty-free items available to Mainland residents on individual visits to Hong Kong, and the maximum permissible limits of these items that they could bring on departure.

Asked by : Hon. TAM Yiu-chung

Reply :

From the information we have gathered, according to a notice issued by the General Administration of Customs of the Central People's Government in 2007, on return to the Mainland, Mainland residents carrying several categories of items are required to make declaration with the Customs authorities and the items concerned may be subject to import duty. These include, for instance, items purchased outside the Mainland equal to or above RMB 5,000 and alcoholic drinks and tobacco products exceeding the stipulated limits.

2. Extract from the relevant Customs notice is at Appendix.

Signature _____

Name in block letters _____

ARTHUR HO

Post Title _____

Permanent Secretary for Constitutional
and Mainland Affairs (Acting)

Date _____

27 March 2009

進境旅客攜帶有下列物品的，應在《申報單》相應欄目內如實填報，並將有關物品交海關驗核，辦理有關手續：

- (一) 動、植物及其產品，微生物、生物製品、人體組織、血液製品；
- (二) 居民旅客在境外獲取的總值超過人民幣5,000元（含5,000元，下同）的自用物品；
- (三) 非居民旅客擬留在中國境內的總值超過2,000元的物品；
- (四) 酒精飲料超過1 500毫升（酒精含量12度以上），或香煙超過400支，或雪茄超過100支，或煙絲超過500克；
- (五) 人民幣現鈔超過20,000元，或外幣現鈔折合超過5,000美元；
- (六) 分離運輸行李，貨物、貨樣、廣告品；
- (七) 其他需要向海關申報的物品。

資料來源：中華人民共和國海關總署
（只有中文）

Examination of Estimates of Expenditure 2009-10
**CONTROLLING OFFICER'S REPLY TO
SUPPLEMENTARY QUESTION**

Reply Serial No.

S-CMAB09

Question Serial No.

SV011

Head : 144 GS: Constitutional and
Mainland Affairs Bureau

Subhead (No. & title) :

Programme : (2) Constitutional and Mainland Affairs

Controlling Officer : Permanent Secretary for Constitutional and Mainland Affairs

Director of Bureau : Secretary for Constitutional and Mainland Affairs

Question : At the request of the Hon Audrey EU, the Administration undertook to provide further information on the programmes and activities planned under the public consultation exercise on 2012 constitutional reform to be conducted in end 2009, and the estimated cost breakdown for these programmes and activities.

Asked by : Hon. EU Yuet-mee, Audrey

Reply :

We have not finalised the plans relating to the public consultation exercise concerning the electoral methods for 2012, but for budget planning purpose, we have set aside about \$5 million in 2009-10 for the exercise. Of the \$5 million earmarked, about \$2 million is staff cost and the remaining \$3 million caters mainly for printing of the public consultation document, public consultation programmes and activities, as well as publicity.

2. In drawing up the public consultation plan for the 2012 electoral arrangements, we will make reference to that of the public consultation on the Green Paper on Constitutional Development (the Green Paper) in 2007:

- (a) Four regional forums were held to collect views of district personalities. More than 770 district personalities, including members of the District Councils, members of Area Committees, representatives of owners' corporations and mutual aid committees, students, professional, the middle class, and representatives of local organizations, etc. participated in these forums.
- (b) Two open forums were organised for members of the public to take part in and to express their opinions. More than 450 members of the public participated in these two forums.

(c) We also met with organizations and associations of different industries and sectors to solicit their views on the issue.

(d) Publicity measures were implemented to encourage members of the public to give views.

3. Depending on the details of the finalised plan, we will allocate additional resources to the public consultation exercise for the 2012 electoral arrangements as necessary.

Signature	_____
Name in block letters	ARTHUR HO
Post Title	Permanent Secretary for Constitutional and Mainland Affairs (Acting)
Date	27 March 2009

Reply Serial No.

S-CMAB10

Examination of Estimates of Expenditure 2009-10

**CONTROLLING OFFICER'S REPLY TO
SUPPLEMENTARY QUESTION**

Question Serial No.

SV012

Head : 703 – Buildings Subhead : 3006GA HKSAR's Participation in the
World Exposition 2010 Shanghai
China – Hong Kong Pavilion

Programme :

Controlling Officer : Director of Architectural Services

Director of Bureau : Secretary for Constitutional and Mainland Affairs

Question : The Administration is requested to provide information on the Contractor which was awarded the contract for the construction of the stand-alone Hong Kong Pavilion for the World Expo 2010 Shanghai, notably the arrangement enabling its delivery of the project in the Mainland, and whether it was required to obtain the necessary professional qualification from the relevant authorities for undertaking design and construction work in the Mainland.

Asked by : Hon. LAU Sau-shing, Patrick

Reply : Among other qualification evaluation criteria adopted in the Tender for "Design and Construction of the Hong Kong Pavilion for HKSAR's Participation in the World Exposition 2010 Shanghai China (Contract No. SS T302)", tenderers were required to satisfy the following qualification criteria:

1. The tenderer shall be a contractor on the List of Approved Contractors for Public Works Buildings Category Group C (Confirmed).
2. The tenderer shall have experience in design and build building projects with value not less than \$80 million (adjusted to current price) in Hong Kong or any place outside Hong Kong in the past five years.
- 3(a). The tenderer is the holder of a 房屋建築工程施工總承包 "特級" or "一級" 資質證書 issued by the Ministry of Housing and Urban-Rural Development of the People's Republic of China; or

- 3(b). Where the tenderer is not the holder of a 房屋建築工程施工總承包 “特級” or “一級” 資質證書 complying with criterion 3(a) above, a sub-contractor who is the holder of a 房屋建築工程施工總承包 “特級” or “一級” 資質證書 issued by the Ministry of Housing and Urban-Rural Development of the People’s Republic of China shall be employed to carry out the construction works.

The successful tenderer has fulfilled the above criteria.

With respect to the designers engaged by the Design and Build Contractor for this project, contract provisions require designers of various disciplines to have the requisite experience in the design, supervision and coordination of construction projects in both Hong Kong and the Mainland.

Contract provisions also stipulate designers to commission local design institutes (LDI) / firms as required under the relevant laws and regulations of the Mainland to provide technical support and make statutory submissions as required.

Signature _____

Name in block letters _____ C H YUE

Post Title _____ Director of Architectural Services

Date _____ 27 March 2009