

香港特別行政區政府
衛生署
醫護機構註冊辦事處

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THE GOVERNMENT OF THE HONG KONG
SPECIAL ADMINISTRATIVE REGION
DEPARTMENT OF HEALTH
OFFICE FOR REGISTRATION OF
HEALTHCARE INSTITUTIONS

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17 December 2012

Miss Mary SO
Clerk, Public Accounts Committee
Legislative Council Complex
1 Legislative Council Road
Central
Hong Kong

Dear Miss SO,

Public Accounts Committee
Consideration of Chapter 4 of the Director of Audit's Report No. 59
Land grants for private hospital development

Thank you for your letter of 11 December 2012. We would like to provide the following information for consideration by the Committee.

Provision of free or low-charge beds

- (a) Before April 1989, the licensing authority of private hospitals was vested with the then Director of Medical and Health Services and was transferred in 1989 to the Director of Hospital Services and in 1991 to the Director of Health upon the reorganisation of the former Medical and Health Department (M&HD). When the Department of Health (DH) took over the regulation of private hospitals in December 1991, it was not a standard practice for the former M&HD and the former Hospital Services Department to conduct inspection of any private hospitals or to monitor the provision of free beds. Only when the DH enquired with the Lands Department in April 2012, it had come to our notice that the land grant condition for LG5 regarding provision of free beds was still in force.
- (b) An account on the monitoring of the compliance of the land grant condition of LG6 by Hospital D of providing low-charge beds is enclosed in **Annex 1**.

***Note by Clerk, PAC:** For Annex 1, please refer to Appendix 30.

- (c) An example of how DH handled non-compliance of land grant conditions is provided in Annex 2.
- (d) The land grant conditions for Hospital D and Hospital F require the hospitals to provide free or low-charge beds on the land lot concerned. However, there is no stipulation on the requirement to designate specific beds or wards for provision of these free or low-charge beds.

Profits/surplus plough-back requirement

- (e) DH issued a letter to relevant private hospitals in December 2010 to request for auditor's certification of compliance with financially related clauses in the land grant conditions. A sample is enclosed at Annex 3. In 2012, DH requested Hospital B, Hospital C, Hospital D and Hospital F to provide auditor's certification of compliance with specified land grant conditions for year ended 31 December 2011. A sample of the letter is attached at Annex 4.
- (f) DH only started to enforce the profits/surplus plough-back requirements of the land grants to private hospitals in December 2010 by requesting private hospitals to provide auditor's certification of compliance with financially related clauses in the land grant conditions.
- (g) The auditors' certifications of compliance with land grant conditions for year ended 31 December 2010 are at Annex 5.
- (h) & (i)
According to our records, the following documents are related to the incorporation of Hospital B and of Hospital D.
- The Registrar of Companies sought comments of the then Director of Medical and Health Services in 1978 on the application of Hospital B for a license under section 21 of the Companies Ordinance (Annex 6).
 - The Registrar of Companies sought DH's comments in 1996 on the application of Hospital D for a license under Section 21 of the Companies Ordinance (Annex 7).

Regarding Hospital F, information relating to the incorporation of the hospital is available in the Trustees' Report in the Financial Statements of the hospital operator (Annex 8).

Currently some private hospitals were incorporated as companies limited by guarantee under the Companies Ordinance. From the perspective of provision of hospital services, the incorporation of the hospitals is not known to adversely affect the operation of hospitals. It also allows the public the access to the financial information of these hospitals, which are required to be publicized under the Companies Ordinance.

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In cases where the grantee and the hospital are separate entities with transactions between the two, DH will request the grantee to provide information on all its incomes and expenditures related to the operation of the hospital and to confirm whether the surplus, if any, is ploughed back to the improvement and extension of the hospital as required by the land grant conditions.

At present there is no urgency to require the grantee to take back the operation of the hospitals, but the subleasing issue will be followed up in accordance with the land lease concerned and with reference from the handling of subleasing in Hospital E's case.

- (j) Documents on DH's follow-up on the irregularities concerning the compliance of the profits/surplus plough-back requirement referred to in paragraph 3.13 (a) to (f) are provided at **Annex 9**.

Site development not strictly in accordance with land grant conditions

- (k) The paragraphs 3.26 and 3.28 concern DH and its approval of building plans of LG4. Hospital C was required by the land grant conditions of LG4 to "*erect and thereafter maintain upon the lot a non-profit-making medical, health and welfare centre providing a social centre for the elderly and a day hospital with such clinics, rehabilitation facilities and other facilities as may be approved by the Director of Health...*" (**Annex 10**). DH examined the building plans according to the clause, which was intended to allow flexibility to provide any such clinics, rehabilitation facilities and other facilities as may be approved by the Director of Health. DH will consult the Lands Department on the mandatory requirements provided by this clause and request the hospital to take appropriate remedial measures accordingly.

Sub-leasing of hospital premises

- (l) Please refer to information provided above in respect of question (j), 3.13(c) & (d).

Way forward

- (m) DH had sought legal advice via Lands Department on the legality of imposing new conditions on the Hospital F as suggested in the paragraph 2.23 (b) of the Audit Report and on the interpretation of certain land grant conditions. DH will work closely with the Lands Department in devising measures to rectify irregularities identified in the Part 2 and Part 3 of Chapter 4 of the Audit Report. Specifically, DH would -
 - (i) seek the advice of the Lands Department on the handling of profit distribution of hospitals occupying multiple land lots with various requirements on profit plough-back;
 - (ii) seek the advice of the Lands Department on the land lease condition of LG4, and to require Hospital C to take remedial measures;

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- (iii) seek legal advice on the requirements to be imposed on Hospital D and Hospital F in respect of provision of free or low-charge beds;
- (iv) require Hospital D to devise a scheme for providing free beds in LG5 with , and to implement the scheme in the first half of 2013 ;
- (v) specify the Government's requirements for provision of "low-charge beds and services" in the case of LG8 made to Hospital F; and
- (vi) support the Lands Department in rectifying the subleasing of the land lots on private treaty grant to hospital operators who are not the grantees.

Owing to the complexity of the issues involved, it is estimated that some of the follow-up actions would take two to three years to be completed (e.g. rectification of irregularities concerning profit plough-back) while the others can be accomplished within a shorter timeframe. DH will actively follow up the issues with all parties concerned and regularly report the progress to the Committee.

Please note that the inspection reports (Appendices D and H) are restricted documents used by DH Officers to enforce Cap.165, and the letters to and from the Hospital B, C, D and F contain financial information that are not advisable for public disclosure or further distribution.

Yours sincerely,



(Dr. FUNG Ying)
for Director of Health

Enclosure

cc Secretary for Food and Health	(Fax: 2102 2568)	} w/o enclosure
Secretary for Development	(Fax: 2151 5303)	
Director of Lands	(Fax: 2152 0450)	
Director of Planning	(Fax: 2116 0755)	
Secretary for Financial Services and the Treasury	(Fax: 2147 5239)	
Director of Audit	(Fax: 2583 9063)	

Internal

DH CR/4-35/13C Pt2

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