

Press release

LCQ17: Capital Investment Fund

Wednesday, May 19, 2010

Following is a question by the Hon Paul Tse and a written reply by the Secretary for Financial Services and the Treasury, Professor K C Chan, in the Legislative Council today (May 19):

Question:

I have learnt that, in the contracts or agreements signed between the Government or the companies of which the Government is the major shareholder and some private organisations on joint implementation of certain projects or programmes (such as the agreements signed between the MTR Corporation Limited and the Skyrail-ITM (Hong Kong) Limited, as well as that between Hong Kong IEC Limited and its management company, etc), very often there are confidentiality clauses which allow such private organisations to have priority in receiving their shares of the revenues regardless of whether the joint ventures have incurred losses, and such arrangements involve large amounts of public funds. In this connection, will the Government inform this Council:

(a) how and when it will release to the public the expenditure involved in the aforesaid contracts or agreements as well as the contents of the clauses; whether the Government has considered how to protect the public's and tax payers' right to know before signing such contracts or agreements with private organisations; if so, of the criteria for consideration; if not, whether it will study introducing such a requirement and the related criteria expeditiously;

(b) of the total number of contracts or agreements, signed between the Government and private organisations in each of the past three years and were not made public due to confidentiality clauses, which contained the clauses granting the latter priority in receiving their shares of revenues, as well as the public funds involved; and

(c) of the existing mechanism, measures and procedure for monitoring the contracts or agreements signed between the Government and private organisations which contain confidentiality clauses similar to the above?

Reply:

President,

(a) and (c) Companies established by the Government with the Capital Investment Fund (including companies established for investment projects jointly implemented by the Government and private organisations) are operated on commercial principles. Before signing any agreements with other private organisations, these companies are required to obtain the necessary approval in accordance with their own corporate management practices, governance structure and internal procedures. This is in line with the general practice adopted by commercial enterprises. As such, whether to release to the public the expenditure or any clauses of the relevant contracts or agreements is the decision of the companies concerned.

Expenditure arising from any government investment projects financed by the Capital Investment Fund (including projects jointly implemented with private organisations) must be approved by the Legislative Council (LegCo). Key features as well as the financial arrangements of such projects will be set out in the funding application submitted by the Administration to the LegCo. The criteria for releasing relevant information depends on circumstances of individual cases, including considerations on policy and commercial grounds, and the public right to information, etc.

(b) In the past three years, the Government has not formed any joint venture companies with private organisations through funding from the Capital Investment Fund.

Ends