

**Report of the Independent Review Committee on
ICAC's Regulatory Systems and Procedures for handling
Official Entertainment, Gifts and Duty Visits**

(The Redacted Version)

September 2013

CONTENTS

Executive Summary	i
Part 1: Introduction	
Background	1
IRC's review	3
Declaration of Interests	4
Acknowledgement	5
Part 2: ICAC's Regulatory Systems and Procedures	
Government Regulations and ICAC Commission Standing Orders	6
Official Entertainment	6
Gifts/Souvenirs	9
Duty Visits	10
Procurement Process	13
Tightening of Control in response to Public Concerns	15
The Commissioner's Role	16
Part 3: Official Entertainment	
Expenditure during the Term of the Former Commissioner	17
Review Findings	19
Recommendations	30
Part 4: Gifts	
Expenditure during the Term of the Former Commissioner	33
Review Findings	35
Recommendations	39
Part 5: Duty Visits	
Expenditure during the Term of the Former Commissioner	40
Review Findings	40
Recommendations	44
Part 6: Summary of Non-Compliances and Short-Comings	46
Part 7: Summary of Recommendations	50

Part 8: Conclusions 54

Annexes

Annex 1 Organisation Chart of ICAC 56

Annex 2 Current and Former ICAC Officers Met by IRC 57

Annex 3 ICAC Form 569 58

Annex 4 Examples of “Commission-wide” Gifts 60

Annex 5 Examples of Gifts Procured by ICAC’s Individual
Departments 62

Annex 6 **[Annex 6 is obliterated for publication pending
conclusion of relevant criminal investigation and/or
prosecution (if any).]** 63

Annex 7 Itinerary of the Visit to Beijing-Kunming-Lijiang (Jan
2009) 64

Annex 8 Itinerary of the Visit to Beijing-Chengdu-Leshan (May
2010) 66

List of Abbreviations 69

EXECUTIVE SUMMARY

Introduction

The Independent Commission Against Corruption (ICAC) was established in 1974 under the ICAC Ordinance (Chapter 204 of the Laws of Hong Kong). Since its establishment, ICAC has played a critical role in transforming Hong Kong into one of the least corrupt places in the world. A culture of probity is one of the key competitive advantages of Hong Kong and is treasured by our society. The public has high expectations for ICAC, in particular its Commissioner, who should be at the forefront to champion the culture of probity in Hong Kong.

2. Arising from wide community concerns over media reports on the handling of official entertainment, gifts, and duty visits by the former Commissioner, Mr Timothy TONG (the Former Commissioner), the Chief Executive of the Hong Kong Special Administrative Region (the Chief Executive) announced the establishment of the Independent Review Committee on ICAC's Regulatory Systems and Procedures for handling Official Entertainment, Gifts and Duty Visits (IRC) on 2 May 2013. IRC was asked to report to the Chief Executive within four months.
3. The terms of reference of IRC are –
 - (a) to review ICAC's regulatory systems and procedures for handling expenses on official entertainment, gifts and duty visits, including arrangements for application, reimbursement and approval;
 - (b) to review the compliance of ICAC staff of all ranks during the term of the Former Commissioner with the regulatory systems and procedures; and
 - (c) to make recommendation on any measure conducive to improving the above systems and procedures.
4. IRC has worked according to its terms of reference and to establish facts. It held a total of 16 meetings from May to Aug 2013 and met with relevant current and former officers of ICAC to complete its work and submit

its report of findings and recommendations.

ICAC's Regulatory Systems and Procedures

5. The ICAC Ordinance requires the Commissioner and officers of ICAC to comply with Government regulations and administrative rules that apply generally to public officers. On matters relating to official entertainment, gifts and duty visits, ICAC generally complied with this requirement. In addition, ICAC has made clarifications and imposed additional requirements compared to the relevant Government regulations and administrative rules through Commission standing orders (CSOs).

6. Being the Head of ICAC, the Commissioner is expected not only to comply with rules and procedures, but to improve them when there are inconsistent practices, grey areas or loopholes. He is given the power by the ICAC Ordinance to introduce rules and procedures through CSO, in addition to Government regulations.

Review Findings and Recommendations

7. Non-compliances and short-comings have been identified by IRC. While there are issues of significant concern, there are also isolated cases of non-compliances caused by human errors and oversights. The following summarises only the major findings and recommendations. The full lists of all the non-compliances and short-comings identified as well as IRC's recommendations are set out in Part 6 and Part 7 of the Report respectively.

Official Entertainment

(a) Alcoholic Drinks Procured Separately

8. The Government has guidelines on expenditure for official entertainments, with ceilings on expenditure per person for lunch and dinner. Exceptions are allowed but must be properly justified and clearly recorded.

9. While ICAC CSO and a standard administrative form used for

making application for entertainments have both set out that the cost of beverage should be included in the entertainment expenditure, some units of ICAC did not comply and excluded the cost of alcoholic drinks procured separately from the calculation.

10. The introduction of ceilings on the expenditure per person for official entertainments is a control mechanism to ensure that entertainments paid for with public funds would not be lavish. **IRC recommends that alcoholic drinks, or other food and beverage, procured separately for an entertainment should be included when determining the expenditure for an entertainment according to ICAC CSO.**

(b) Commissioner's Accountable Entertainment Allowance

11. ICAC Commissioners, as part of their terms of appointment, are eligible for an accountable entertainment allowance (standing at \$36,000 per annum since 1984). However, there are no Government regulations or ICAC CSOs that clearly stipulate the application of this allowance other than the fact that claims must be made with the production of receipts. **IRC recommends that the Government and the Commissioner should work together to clarify and agree on the rules that govern the use of this allowance.**

(c) Control on Entertainments Charged to the Publicity Vote

12. Expenditure relating to entertainments which are part of publicity activities (e.g. conferences, seminars and promotional events) was charged to the Publicity Vote and was subject to less stringent control. **IRC recommends that they should be subject to the same level of control as other official entertainments.**

[Paragraphs 13 – 15 are obliterated for publication pending conclusion of relevant criminal investigation and/or prosecution (if any).]

(d)

13.

14.

15.

(e) Level of Entertainment Expenditure

16. Government guidelines set out ceilings on the expenditure per person for lunch and dinner. Exceptions are allowed but must be properly justified and clearly recorded. Around 37% of the 206 lunches and dinners hosted by the Former Commissioner and charged to the Official Entertainment Vote exceeded the ceilings after all food and beverage cost was included according to ICAC CSO. Some of them were very expensive. The high percentage of 37% cannot be considered as mere "exceptions". IRC is of the view that such practice has caused concerns among the public. The Former Commissioner should have ensured that entertainments hosted by ICAC adhered strictly to the principle of frugality, instead of frequently exceeded the ceilings himself. In comparison, less than 2% of the 460 lunches and dinners hosted by other ICAC officers and charged to the Official Entertainment Vote during the term of the Former Commissioner exceeded the ceilings.

17. **[Paragraph 17 is obliterated for publication pending conclusion of relevant criminal investigation and/or prosecution (if any).]**

18. ICAC has been promoting the message to both the private and public sectors that they should be conscientious in providing and accepting

entertainments. Moreover, official entertainments involve the use of public money. IRC considers that it is not appropriate for ICAC to offer entertainments in some of the very prestigious venues in Hong Kong at high cost. **IRC recommends that ICAC should return to the principle of frugality and avoid extravagance in handling official entertainments.**

19. IRC acknowledges that the Commissioner, as the Head of ICAC and its Controlling Officer designated under the Public Finance Ordinance, is entrusted with discretionary power in incurring expenditure. However, in view of the special role of the Commissioner in promoting corruption prevention in Hong Kong and the potential reputational risk of indiscretion, **IRC recommends to introduce more checks and balances by requiring ICAC to report regularly to the Advisory Committee on Corruption¹ the details of official entertainments that exceed the ceilings on expenditure per person.**

(f) Hard Liquor

20. The Former Commissioner started the practice of serving Maotai² in official entertainments hosted by ICAC in Hong Kong. The consumption of hard liquor attracts public concern over whether it is appropriate to discuss official matters under the influence of alcohol. **IRC supports the current Commissioner's decision to ban the serving of hard liquor in official entertainments.**

(g) Further Improvements by ICAC

21. ICAC plans to further tighten the procedures to control entertainment expenditure. ICAC also plans to extend the practice of regular audits in its

¹ The Advisory Committee on Corruption is one of the advisory committees that oversees the work of ICAC. Its terms of reference is to advise the Commissioner on any aspect of the corruption problems in Hong Kong, and to –

- (a) keep the operational, staffing and administrative policies of ICAC under review;
- (b) advise on action being considered by the Commissioner under section 8(2) of the ICAC Ordinance;
- (c) receive reports by the Commissioner on disciplinary action taken;
- (d) consider the annual estimates of expenditure of ICAC;
- (e) scrutinise the annual report of ICAC before its submission to the Chief Executive;
- (f) submit an annual report to the Chief Executive on the work of the Committee; and
- (g) draw to the Chief Executive's attention, as it considers necessary, any aspect of the work of ICAC or any problem encountered by it.

² Maotai (茅台酒) is a Chinese hard liquor.

Operations Department, which will help ensure compliance and early detection of possible irregularities, to all other departments and the Administration Branch of ICAC. **IRC supports these initiatives which would address many of the short-comings identified and improve the control environment.**

Gifts

(a) Presentation of Gifts on Official Occasions

22. Since 1996, ICAC has a policy to "limit to the minimum the exchange of gifts on official occasions. Where an exchange of gifts is unavoidable on a particular occasion, the exchange should be made from organisation to organisation".

23. The quantity of official gifts given out during the term of the Former Commissioner was considerable and some were expensive. The practice was not in line with ICAC's long established policy. Furthermore, some of the gifts presented were personal gifts in nature. IRC is of the view that presenting such gifts was inappropriate in view of the role of ICAC. **IRC recommends that ICAC should comply with its long established policy on gifts.**

24. ICAC has been educating both the public and private sectors on the need to be conscientious when accepting gifts. While giving gifts is different from accepting gifts, they are two sides of the same coin.

25. While acknowledging that the Commissioner is entrusted with discretionary power in incurring expenditure, **IRC recommends to introduce more checks and balances by requiring ICAC to draw up a list of standard gifts to be reviewed and supported by the Advisory Committee on Corruption, and to report regularly to the Committee non-standard gifts presented on official occasions, their value and the recipients.**

(b) Procurement Practice

26. IRC finds the following non-compliances from its sampling review of 14 procurements of gifts –

- (a) for direct procurements by officers with a value not exceeding \$5,000 to meet immediate needs, ICAC has imposed an additional requirement compared to Government regulations, i.e. more than one quotation should be obtained. However, of the eight direct procurements by officers to meet immediate needs reviewed by IRC, seven did not comply; and
- (b) on one occasion, the procurement was split into two parts to circumvent the restriction that direct procurement by officers to meet immediate needs must not exceed \$5,000. This was a clear violation of procedures.

27. IRC recommends to strengthen the control of procurement process in ICAC to ensure that relevant rules and regulations are being complied with.

Duty Visits

(a) Non-official Elements in Duty Visits of the Former Commissioner

28. IRC has reviewed all duty visits led by the Former Commissioner and considers that the following two duty visits involved excessive non-official duty related activities –

- (a) Beijing-Kunming-Lijiang (11-17 Jan 2009); and
- (b) Beijing-Chengdu-Leshan (16-23 May 2010).

29. In the Former Commissioner's applications to the Chief Executive seeking approval for the two duty visits, reference was made only to visiting Yunnan and Sichuan. There was no specific mention that the itineraries would cover Lijiang and Leshan.

30. IRC recommends that ICAC should conscientiously avoid non-official elements in duty visits. Moreover, the Commissioner should inform the Chief Executive of all specific locations he would visit when seeking approval for duty visits.

(b) Procurement of Air Passages

31. IRC has reviewed the procurement of air passages for 22 duty visits and finds the following non-compliances –

- (a) no approval was found for the upgrading of air passages to Business Class by two officers for a duty visit to Brazil. The upgraded air passages cost \$186,000 in total;
- (b) in 14 duty visits, specific airlines and flights were already identified when inviting quotations for air passages, but no justifications were provided to exclude alternatives. Such practice will preclude competition; and
- (c) in four duty visits, procurement orders for air passages of the Former Commissioner were issued before approval for the duty visits from the Chief Executive had been obtained. Cancellation of the air passages was allowed subject to cancellation charges.

32. On one occasion, the Former Commissioner modified the air passage to arrive two days earlier, for private reasons without seeking approval as required. However, it should be pointed out that no extra subsistence allowance was claimed.

33. IRC finds that ICAC's CSO on procurement of duty passages does not cover the Commissioner, which contributes to some of the non-compliances. **IRC recommends that the CSO should be amended in this aspect.**

34. **IRC also recommends ICAC to unify its internal practice by adopting a standard form to handle approval for duty visits and request for procurement of air passages.** This would also help avoid non-compliances.

Conclusions

35. Public officers should always be prudent when using public funds. In

offering entertainment, gifts and conducting duty visits, they should always adhere to the principle of frugality and avoid extravagance. This is particularly important in the case of ICAC which is held in very high regard by the public.

36. Based on the findings of its review, IRC observes that some of the entertainments hosted, gifts presented and duty visits conducted by the Former Commissioner deviated from the above principle and gave cause for public concern.

37. In the meantime, IRC observes that many ICAC officers are indeed very conscientious of their mission and have conducted themselves with discipline. They remain resolutely determined in performing their duties.

PART 1: INTRODUCTION

1.1 This Part provides the background of the establishment of the Independent Review Committee on ICAC's Regulatory Systems and Procedures for handling Official Entertainment, Gifts and Duty Visits (IRC) and gives a brief account of how IRC has conducted the review.

Background

ICAC

1.2 The Independent Commission Against Corruption (ICAC) was established in 1974 under the ICAC Ordinance (Chapter 204 of the Laws of Hong Kong). It has adopted a three-pronged approach of law enforcement, community education and prevention to combat corruption. Its work is carried out through three functional departments, i.e. the Operations Department (OPS), the Community Relations Department (CRD) and the Corruption Prevention Department (CPD). There is also an Administration Branch (ADM) to provide central support. An organisation chart of ICAC is at

Annex 1 *Annex 1*.

1.3 Since its establishment, ICAC has played a critical role in transforming Hong Kong into one of the least corrupt places in the world. This achievement is well recognised internationally. A culture of probity is one of the key competitive advantages of Hong Kong and is treasured by our society. The public has high expectations for ICAC, in particular its Commissioner, who should be at the forefront to champion the culture of probity in Hong Kong.

Recent Community Concerns and the Set-up of IRC

1.4 In Apr 2013, the Audit Commission released a report on a value-for-money review of ICAC's work in preventive education and enlisting public support against corruption. Among the various recommendations, the Audit Commission considered that ICAC should tighten the control over the

expenditure for official entertainment¹. The audit report and subsequent media reports on the handling of official entertainment, gifts, and duty visits by the former Commissioner, Mr Timothy TONG (the Former Commissioner), gave rise to wide community concerns.

1.5 On 2 May 2013, the Chief Executive of the Hong Kong Special Administrative Region (the Chief Executive) announced the establishment of the four-member IRC, with the Chairmen of three advisory committees that oversee the work of ICAC as well as the Chairman of the ICAC Complaints Committee as members. They are –

- (a) the Chairman of Advisory Committee on Corruption, Mr CHOW Chung-kong, who chaired the meetings of IRC;
- (b) the Chairman of Corruption Prevention Advisory Committee, Mr Albert AU Siu-cheung;
- (c) the Chairman of Citizens Advisory Committee on Community Relations, Prof John LEONG Chi-yan; and
- (d) the Chairman of ICAC Complaints Committee, Dr LEONG Che-hung.

1.6 The terms of reference of IRC are –

- (a) to review ICAC's regulatory systems and procedures for handling expenses on official entertainment, gifts and duty visits, including arrangements for application, reimbursement and approval;
- (b) to review the compliance of ICAC staff of all ranks during the term of the Former Commissioner with the regulatory systems and procedures; and
- (c) to make recommendation on any measure conducive to improving the above systems and procedures.

¹ Para.3.21-3.26, Chapter 7 of the Director of Audit's report No.60, which can be obtained from the Audit Commission's website: www.aud.gov.hk.

IRC was asked to submit its report to the Chief Executive within four months of its establishment.

IRC's Review

1.7 IRC has worked according to its terms of reference and to establish facts. It held a total of 16 meetings from May to Aug 2013. In conducting its review, IRC undertook the following tasks –

- (a) reviewed ICAC's regulatory systems and procedures for handling expenses on official entertainment, gifts and duty visits for possible improvement to address public concerns;
- (b) performed overall analyses of all expenditure for official entertainment, gifts and duty visits of ICAC during the term of the Former Commissioner; and
- (c) reviewed the compliance with applicable regulatory systems and procedures of expenditure for official entertainment, gifts and duty visits of ICAC officers, on a sample basis, during the term of the Former Commissioner.

1.8 IRC invited the current and Former Commissioner, all the current and former Directors of Community Relations and Assistant Directors of the Administration Branch (AD/ADMs) during the term of the Former Commissioner, as well as other relevant officers for meeting. It is appreciated that all of them accepted IRC's invitation. A list of the officers that IRC had met was at *Annex 2*.

Annex 2

1.9 In addition, IRC extended invitation of meeting to all staff representatives elected to ICAC's Commission Staff Consultative Committee. To facilitate candid exchange of views, IRC undertook not to disclose the names of the staff representatives met. A number of staff representatives met with IRC.

1.10 IRC's observations, assessments and recommendations from the review are set out in Parts 3 to 7.

Declaration of Interests

1.11 The Chairman and Members of IRC have declared the following interests that may relate to matters to be reviewed within its terms of reference –

- (a) Mr CHOW Chung-kong, in his capacity as the Chairman of the Advisory Committee on Corruption, attended two official entertainments hosted by ICAC in Jan 2013 and Feb 2013;
- (b) Mr Albert AU Siu-cheung, in his capacity as the Chairman of the Corruption Prevention Advisory Committee, knew the Former Commissioner and since 2007 attended the annual official entertainment hosted by ICAC for Chairmen and members of the advisory committees that oversee the work of ICAC;
- (c) Prof John LEONG Chi-yan, in his capacity as the Chairman of the Citizens Advisory Committee on Community Relations and a former member of the Operations Review Committee, knew the Former Commissioner and had attended eight annual official entertainments hosted by ICAC for Chairmen and members of the advisory committees that oversee the work of ICAC; and
- (d) Dr LEONG Che-hung, in his capacity as the Chairman of the ICAC Complaints Committee, knew the Former Commissioner and attended two entertainments hosted by ICAC for the Chairman and members of the ICAC Complaints Committee.

1.12 IRC concluded that the declared interests should not affect the work of Members in conducting the review in an objective and impartial manner.

1.13 The Secretary reported to IRC that in his former capacity as the Secretary-General of the Hong Kong Council for Testing and Certification, he had attended a lunch hosted by ICAC's CRD in Jun 2010 to discuss cooperation in promoting corruption prevention to the testing and certification industry.

Acknowledgement

1.14 IRC would like to record its gratitude to the IRC Secretariat led by Mr John Hung. Their support is essential in enabling IRC to conduct its work and to discharge its duty. ICAC has spent enormous effort in supplying factual information. IRC would like to express its appreciation for their assistance. IRC would also like to thank various offices of the Administration for their cooperation and support.

1.15 IRC would also like to express its gratitude to the current and former ICAC officers and ICAC staff representatives who met with IRC. They have provided valuable information and insights.

PART 2: ICAC'S REGULATORY SYSTEMS AND PROCEDURES

2.1 This Part sets out the main features of ICAC's regulatory systems and procedures on the handling of official entertainment, gifts and duty visits.

Government Regulations and ICAC Commission Standing Orders

2.2 The ICAC Ordinance requires the Commissioner and officers of ICAC to comply with Government regulations and administrative rules that apply generally to public officers.

2.3 In addition, the ICAC Ordinance allows the Commissioner to make Commission standing orders (CSOs), providing for –

- (a) the control, direction and administration of the Commission;
- (b) the discipline, training, classification and promotion of officers;
- (c) the duties of officers;
- (d) the financial regulation of the Commission; and
- (e) such other matters as may be necessary or expedient for preventing abuse or neglect of duty and for upholding the integrity of the Commission.

2.4 The Commissioner may, with the prior approval of the Chief Executive, modify the application of Government regulations or administrative rules to ICAC officers by CSOs. On matters relating to official entertainment, gifts and duty visits, ICAC has not made any such modifications. Rather, through CSOs, ICAC has made clarifications and imposed additional requirements to the relevant Government regulations and administrative rules.

Official Entertainment

2.5 The following summarises the main points of the applicable

regulatory systems and procedures during the term of the Former Commissioner on official entertainment –

- (a) expenses incurred on provision of official entertainment may be reimbursed if prior approval has been obtained from –
 - (i) the Commissioner: for Commission-wide functions or for entertainments hosted by CPD and ADM;
 - (ii) the Deputy Commissioner, who is the Head of OPS: for entertainments hosted by OPS; and
 - (iii) the Director of Community Relations: for entertainments hosted by CRD;
- (b) unless the Commissioner has approved otherwise, the expenditure per person, inclusive of tips, is subject to the following ceiling –
 - (i) operational liaison lunch²: \$150;
 - (ii) lunch: \$300 (revised to \$350 from 1 Jan 2011); and
 - (iii) dinner: \$400 (revised to \$450 from 1 Jan 2011).

Exceptions in the cases of (ii) and (iii) should be properly justified and clearly recorded.

In Jun 2008, ADM introduced a standard form to facilitate officers in ICAC to seek approval for entertainments. The form indicates that entertainment expenditure includes beverages and tips. In Jul 2009, ICAC further amended its relevant CSO to clarify that the expenditure per person should be inclusive of food, beverages and tips;

² Operational liaison lunch is hosted by OPS for government-officials. As Government regulations do not allow reimbursement of official entertainment expenses for meals with all guests coming from the Government, ICAC has a tradition that the Commissioner will allow the expenses to be paid from the Commissioner's accountable entertainment allowance. Please refer to Part 3 of this Report for more details of the allowance.

- (c) expenditure for an entertainment may be charged to public funds when it is –
 - (i) directly related to the discharge of an officer's duties or a necessary part of making or maintaining contacts in his official capacity; and
 - (ii) in the public interest;
- (d) official entertainments must be held for non-government personnel except for the following two occasions –
 - (i) entertaining representatives of staff associations; or
 - (ii) expressing appreciation to staff for exceptional achievements, significantly beyond the normal call of duty;
- (e) expenditure arising from the presence of other Government/ICAC officers and their spouses may be reimbursed when the Commissioner or the officer acting as the host considers –
 - (i) it in the public interest that the principal guests should meet such officers; or
 - (ii) it necessary to invite them to assist in entertaining the principal guests;
- (f) when an official entertainment is combined with private entertainment, only the proportion of the expenditure that is attributable to the presence of the host and hostess and of their official guests may be charged to public funds;
- (g) tips should follow the guidelines below –

<u>Entertainment Expenses</u>	<u>Maximum Amount of Tips</u>
up to \$2,000	5% of the bill amount
from \$2,000 to \$4,000	\$100
over \$4,000	\$200

- (h) vouchers (i.e. payment records) must include sufficient supporting information to enable the Audit Commission to ascertain whether the regulations are being complied with. The list of guests for a particular function must be retained for at least 12 months and produced for the Audit Commission's examination if required.

Gifts/Souvenirs

2.6 Since 1996, ICAC has a stated policy on exchange of gifts on official occasions³, reproduced below –

"The policy of the Commission is to limit to the minimum the exchange of gifts on official occasions. Where an exchange of gifts is unavoidable on a particular occasion, the exchange should be made from organisation to organisation. Although it may be difficult formally to ask visitors not to offer any gift, it would be desirable to disclose the Commission's policy on this matter to other organisations wherever possible in advance..."

2.7 Separately, ICAC has introduced rules on gifts presented by staff when invited to social functions (such as wedding or birthday parties) hosted by local leaders who have frequent official contact with ICAC –

<u>Number of officers invited</u>	<u>Maximum value of gift</u>
One officer invited (one gift)	\$400
Two officers invited (one joint gift)	\$600
More than two officers invited (one joint gift)	\$800

Expenditure for such gifts is treated by ICAC as entertainment expenses.

³ Promulgated in the ICAC Staff Circular No. 23/96 "The Giving and Receiving of Gifts on Official Occasions". The Circular was later cancelled after the policy was incorporated into ICAC CSO Part I Chapter 9 Section 3.

Duty Visits

2.8 The following summarises the main points of the applicable regulatory systems and procedures during the term of the Former Commissioner on duty visits –

- (a) the approving authorities for duty visits are –
 - (i) the Chief Executive: for the Commissioner;
 - (ii) the Commissioner: for all non-investigation related duty visits; and for investigation related duty visits by the Deputy Commissioner and Directors of Investigation⁴ of OPS; and
 - (iii) Directors of Investigation: for investigation related duty visits of other officers of OPS.

Approval from the Commissioner is required if there are changes to the duty visit plan involving over \$5,000 or 20% of the original commitment. Lesser changes are approved by AD/ADM;

- (b) class of air travel –

<u>Officer</u>	<u>Class of air travel</u>
Commissioner, Deputy Commissioner	Business Class
other officers	Economy Class

The Commissioner and Deputy Commissioner are encouraged to travel on Economy Class where the flying time is less than four hours;

- (c) upgrading from Economy Class may be allowed under the following circumstances and subject to availability of funds and the prevailing ICAC policy –
 - (i) the flying time exceeds nine hours; or

⁴ The Director of Investigation (Government Sector) and the Director of Investigation (Private Sector) of OPS

- (ii) the officer has to travel again within seven calendar days from his last return from duty visit or if the officer is subject to a tight flight schedule of no less than three flights within five days; or
- (iii) the appropriate class of travel is not available on the route concerned and choice of other flights is not appropriate for the purpose of the visit; or
- (iv) the officer is required on duty to travel in the same class with another person or group of persons taking a higher class of air passage.

No upgrading will be allowed –

- (i) for the outward journey to the duty place: if an officer takes leave outside Hong Kong before duty is performed; or
- (ii) for the return journey to Hong Kong: if an officer takes leave or is granted authorised absence after performance of duty outside Hong Kong or upon arrival in Hong Kong.

Approving authority for upgrading rests with the Commissioner, Heads of Departments⁵ and Directors of Investigation;

- (d) Approval to vary duty air passage arrangement for private reasons may be given on the conditions that –
 - (i) the modification would not undermine the original justifications for the passage arranged;
 - (ii) additional expenses, if any, must be met by the officer; and
 - (iii) savings, if any, should not be used to subsidise the officer's personal travel.

⁵ Refers to the Deputy Commissioner (who is the Head of OPS), Director of Community Relations and Director of Corruption Prevention

The approving authorities are –

- (i) the Secretary for the Civil Service (the Chief Executive after the Former Commissioner left the civil service): for the Commissioner;
 - (ii) the Commissioner: for the Heads of Departments, Director of Investigations and AD/ADM; and
 - (iii) the Heads of Departments and AD/ADM: for officers from their own departments and ADM;
- (e) officers should submit to the Supplies Office of ADM their request for the booking of air passage together with the approval in writing for the duty visits;
- (f) officers may claim mileage awards from official duty visits, but are required to report the mileage awards to ICAC. The first call on the use of such awards must be for official use. If the awards are not expected to be used for official duty visits before expiry, prior approval must be sought for private use from –
- (i) the Commissioner: for directorate officers; and
 - (ii) AD/ADM: for other officers.

If the Commissioner wishes to use the awards for private use before expiry, he has to notify the Civil Service Bureau in writing for record purposes;

- (g) subsistence allowance is provided for official duty visits to cover the cost of the appropriate standard of accommodation and meals, laundry charges, casual entertainment, gratuities, travelling expenses within towns and all minor incidental out-of-pocket expenses. ICAC adopted the standard rates of subsistence allowance set by the Government, which vary from city to city;
- (h) instead of drawing the standard subsistence allowance, officers may

claim an enhanced rate consists of the actual cost of hotel (excluding meals and sundries) with the subsistence allowance reduced by 60%, and/or the actual cost of in-town transport with the subsistence allowance reduced by 5%. The approving authorities for the enhanced rate are –

- (i) the Secretary for the Civil Service (the Chief Executive after the Former Commissioner left the civil service): for the Commissioner;
 - (ii) the Commissioner: for Heads of Departments, Directors of Investigation, and all officers in ADM;
 - (iii) the Directors of Investigation: for other officers in OPS; and
 - (iv) the Director of Community Relations and Director of Corruption Prevention: for officers in their own departments; and
- (i) reasonable expenses other than those covered by subsistence allowance (e.g. visa fees, airport tax) may be reimbursed with the approval of an Assistant Director. For expenses claimed by the Commissioner, the approving authority is the Secretary for the Civil Service (the Chief Executive after the Former Commissioner left the civil service).

Procurement Process

2.9 Many expenses arising from gifts and duty visits are related to procurement. Some examples are purchase of gifts for presentation to visitors and air tickets for a duty visit. In most cases, these involve goods and services of a value not exceeding \$50,000. The following summarises the main points of the applicable regulatory systems and procedure in ICAC for such procurements during the term of the Former Commissioner –

- (a) officers may make minor purchases in cash or through purchasing cards to meet immediate needs provided that –

- (i) the total value does not exceed \$5,000 (or \$25,000 while on official duty visits outside Hong Kong) and authorised by officers not lower than the rank of Assistant Supplies Officer/Executive Officer II or equivalent;
 - (ii) normally more than one quotation should be obtained;
 - (iii) the authorising officer not lower than the rank of Assistant Supplies Officer/Executive Officer II or equivalent certifies on file that the purchase is essential and the rates obtained are reasonable; and
 - (iv) for payment in cash, to use the specified form (GF51) to claim reimbursement; and
- (b) for purchases not exceeding \$50,000 (including those not exceeding \$5,000 but are not required to meet immediate needs) –
- (i) officers not lower than the rank of Assistant Clerical Officer or equivalent to select more than one supplier from the approved list of suppliers by rotation and record details of the quotations received. Justifications should be specified if the selection of suppliers is not made by rotation; and
 - (ii) designated officers⁶ in individual departments/ADM to approve acceptance of an offer and to certify that the prices quoted are reasonable. The norm is to accept the lowest conforming offer. Justifications for rejecting the lowest conforming offer or accepting a single quotation should be fully documented.

2.10 For purchase exceeding \$50,000, there are additional and more elaborated requirements on the approval for invitation for quotation, selection of suppliers for quotation and acceptance of offer.

2.11 For procurement of gifts for presentation on official occasions, there is an established practice that prior confirmation of funding from designated

⁶ All the designated officers are at ranks higher than the requirement of the relevant Government regulations.

officers in individual departments/ADM would be obtained. The invoices and receipts also have to be certified by designated officers in individual departments/ADM for processing of payment.

2.12 ICAC has appointed the Senior Staff Officer (Management and Administration)² of ADM as the Departmental Stores Manager to assist the Commissioner in supervising all procurement and stores management matters within ICAC. During the term of the Former Commissioner, one of the responsibilities of the Departmental Stores Manager was to ensure that the procurement procedures were being followed.

Tightening of Control in response to Public Concerns

2.13 In response to public concerns over media reports on the Former Commissioner's handling of entertainment, gifts and duty visits, ICAC issued new reminders and further guidelines on 6 May 2013. These include –

- (a) for entertainment –
 - (i) to only invite guests who are directly related to the context of the official business;
 - (ii) to confine the number of ICAC officers attending the event to those who are directly related to the context of the official business;
 - (iii) to restrict the number of ICAC officers attending the event to not exceeding the number of guests;
 - (iv) to prohibit splitting of entertainment bills or charging them to different votes;
 - (v) all official entertainments hosted by Heads of Department must be approved by the Commissioner; and
 - (vi) to ensure checks and balances, the Deputy Commissioner will endorse official entertainments hosted by the Commissioner;

whereas AD/ADM will check compliance of those attended by both the Commissioner and Deputy Commissioner;

- (b) as a general principle, ICAC officers should not offer gifts/souvenirs to official guests and should avoid as far as possible exchanging gifts/souvenirs with official guests. As appropriate, the organisation concerned should be notified in advance of the arrangement. Where the exchange of gifts/souvenirs is unavoidable, officers should only present one souvenir inscribed with the ICAC logo (e.g. ICAC Building model, ICAC Annual Report or ICAC plaque, etc.) to the organisation concerned. No gifts/souvenirs should be given on a personal basis; and
- (c) for duty visits –
 - (i) to grant approval only when such duty visits are absolutely necessary in the discharge of the officers' duties or prominently conducive to the missions and/or functions of ICAC;
 - (ii) to keep the number of officers joining a duty visit to the minimum; and
 - (iii) to confine the duration of the duty visit to cover only the part of the programmes/sessions pertaining to the official purposes of that visit.

The Commissioner's Role

2.14 The Commissioner, supported by his management team, is responsible for the direction and administration of ICAC. Ensuring compliance by ICAC staff with relevant rules and procedures is part of the role of the Commissioner.

2.15 Being the Head of ICAC, the Commissioner is expected not only to comply with rules and procedures, but to improve them when there are inconsistent practices, grey areas or loopholes. He is given the power by the ICAC Ordinance to introduce rules and procedures through CSO, in addition to Government regulations and administrative rules.

PART 3: OFFICIAL ENTERTAINMENT

3.1 This Part reports on the findings and recommendations arising from IRC's review on official entertainments.

I. Expenditure during the Term of the Former Commissioner

3.2 During the term of the Former Commissioner, ICAC hosted 899 entertainments. The expenditure was charged to three different accounts –

(a) Official Entertainment Vote

The expenditure for official entertainments was generally charged to this account, which included –

	No.	Expenditure (\$)
Breakfast	13	18,000
Lunch	476	1,195,000
Dinner	190	1,114,000
Tea reception/drinks/others	108	236,000
Total	787	2,564,000

Note: figures may not add up to the corresponding total due to rounding

In addition to the above, expenditures of \$168,000 for procurement of alcoholic drinks (including wine and hard liquor) and \$11,000 for procurement of gifts by ICAC officers when attending local social functions were also charged to this account.

(b) Publicity Vote

The expenditure for official entertainments in publicity activities (e.g. lunch and/or dinner in a seminar/conference) could be charged to the Publicity Vote, which was the account for publicity activities. During the term of the Former Commissioner, expenditure for 61 official entertainments in 45 publicity activities was charged to the Publicity Vote. Of these, separate breakdown on the expenditure for 52 entertainments was available. Details are set out below –

	No. of entertainments	Entertainment in publicity activities with breakdown on the expenditure available	
		No.	Entertainment Expenditure (\$)
Lunch	49	45	484,000
Dinner	7	7	396,000
Others	5	-	-
Total	61	52	880,000

Note: figures may not add up to the corresponding total due to rounding

In addition to the above, there was also separate expenditure of about \$11,000 for the procurement of alcoholic drinks charged to this account.

(c) Commissioner's Personal Entertainment Vote

As part of their terms of appointment and remuneration package, ICAC Commissioners are eligible for an accountable entertainment allowance. This allowance currently stands at \$36,000 per annum. During the term of the Former Commissioner, the following entertainments were charged to this account –

	No.	Expenditure (\$)
Lunch	32	65,000
Dinner	13	63,000
Tea reception/drinks	6	4,000
Total	51	132,000

Note: figures may not add up to the corresponding total due to rounding

In addition to the above, there was separate expenditure of about \$26,000 for the procurement of alcoholic drinks charged to this account.

II. Review Findings

Entertainments Reviewed

3.3 IRC reviewed nearly 400 entertainments during the term of the Former Commissioner. These included –

- (a) all the entertainments hosted by the Former Commissioner;
- (b) entertainments hosted by other ICAC officers with expenditure per person above Government's guidelines after the cost of alcoholic drinks and other food procured separately was included; and
- (c) about 20% of the remainder.

Issue 1 – Alcoholic Drinks Procured Separately

3.4 The prices of alcoholic drinks ordered in restaurants are usually higher than those procured from shops. To save cost, ICAC, as other Government departments, had a practice of procuring alcoholic drinks separately from shops for entertainment use.

3.5 Stocks of alcoholic drinks were kept by various units in ICAC. Each unit maintained records of the stocks on their own initiative and in different formats. **IRC considers that a unified systematic approach to keep inventory of alcoholic drinks should be introduced.**

3.6 The Government has guidelines on expenditure for official entertainments, with ceilings on expenditure per person for lunch and dinner. Exceptions are allowed but must be properly justified and clearly recorded. The purpose of the guidelines is to remind officers to exercise economy when entertaining guests with public funds and avoid extravagance. ICAC CSO requires that entertainment expenditure be kept within the Government guidelines, unless otherwise approved by the Commissioner.

3.7 IRC finds that during the term of the Former Commissioner, the cost of alcoholic drinks procured separately had not always been included when calculating the expenditure for entertainments. Generally OPS and ADM did

include while CRD did not. CPD rarely organised entertainments. There was also an Office of Strategic Research⁷ which did not include the cost of alcoholic drinks in the majority of the entertainments it organised. The two examples below illustrated the inconsistent practices –

- (a) Lunch on 15 Aug 2007, an example of cost of alcoholic drinks being **included** by OPS – this was a lunch hosted by the Former Commissioner for two guests from the United Kingdom. The lunch was organised by OPS. In the proposal for the lunch submitted to the Former Commissioner, OPS set out the total estimated cost of \$3,570 for the lunch, which comprised of \$330 x 9 persons for the meal and \$600 for two bottles of wine. OPS pointed out to the Former Commissioner that the total cost exceeded the ceiling of \$300 per person for lunch at that time and proposed that the extra cost could be justified because of the need for a private room, the rank of the visitor, the convenient location of the restaurant and that the offer was the lowest among restaurants with comparable ambiance and food quality.

- (b) Dinner on 18 Sep 2007, an example of cost of alcoholic drinks being **excluded** by CRD – this was a dinner hosted by the Former Commissioner for an official delegation from the Mainland. The dinner was organised by CRD. Separate procurement of wine was planned. On 11 Sep 2007, when CRD was making preparation for the dinner, ADM advised CRD that the cost of alcoholic drinks procured separately should be included in the expenditure for the entertainment, resulting in the \$400 ceiling per person for dinner being exceeded. ADM advised CRD to mention this point and provide justifications when seeking approval from the Former Commissioner. On 14 Sep 2007, CRD submitted the proposed arrangement for the dinner to the Former Commissioner. In the proposal, CRD asked the Former Commissioner to approve a budget of \$6,400 for 16 persons, and advised the Former Commissioner that it was within the \$400 ceiling per person for dinner. The cost of

⁷ The Office of Strategic Research was set up by the Former Commissioner in 2007 under the establishment of ADM to function as a think-tank and conduct research on policy and strategic matters of significant importance. It also provided support and assistance to the Former Commissioner in the discharge of his representational functions, including preparations of speeches and presentations and receiving official contacts. It occasionally organised entertainments.

alcoholic drinks to be procured separately was not mentioned. On 18 Sep 2007, the Former Commissioner instructed to procure Maotai⁸ instead of wine. CRD sought assistance from the Office of the Strategic Research to make an urgent purchase. The actual expenditure was \$6,000 for the meal and \$1,796 for the alcoholic drinks that were procured separately. Subsequent to the dinner, CRD asked the Former Commissioner to sign on the receipt for procurement of alcoholic drinks as a covering approval to authorise the procurement, but there was no documentation suggesting that CRD had informed the Former Commissioner that the total expenditure exceeded the ceiling, and no justifications for exceeding the ceiling had been recorded.

Annex 3

3.8 When asked by IRC, the then AD/ADM said that, to better comply with the spirit of the Government guidelines on entertainment expenditure per person, the cost of alcoholic drinks procured separately should be included in the calculation of the total expenditure for entertainments. ADM attempted to improve the practice by introducing the ICAC Form 569 (at *Annex 3*) in mid-2008.

3.9 ICAC Form 569 was intended for use by ICAC officers in seeking approval for entertainment expenditure. The Form sets out explicitly that estimated expenditure included beverage and tips. After the Form was introduced for about half a year, CRD stopped to use the Form. Regardless of whether the Form was used or not, CRD did not include the cost of alcoholic drinks (which were beverage) procured separately in the expenditure for entertainments.

3.10 In Jul 2009, ICAC CSO Part I Chapter 25 Section 4 "Entertainment Expenses" was amended to set out explicitly that expenditure per person for entertainment should include "food, beverages and tips". Despite the amendment, CRD continued to exclude cost of alcoholic drinks procured separately from the calculation of expenditure for entertainments based on its understanding that both the meals and alcoholic drinks were separately approved for payments.

3.11 **[Paragraph 3.11 is obliterated for publication pending conclusion**

⁸ Maotai (茅台酒) is a Chinese hard liquor.

of relevant criminal investigation and/or prosecution (if any).]

3.12 The introduction of ceilings on the expenditure per person for official entertainments is a control mechanism to ensure that entertainments paid for with public funds would not be lavish. **IRC considers that alcoholic drinks, or other food and beverage, procured separately for an entertainment should be included when determining the expenditure for an entertainment according to ICAC CSO.**

Issue 2 – Unclear Rules for the Commissioner's Accountable Entertainment Allowance

3.13 ICAC Commissioners, as part of their terms of appointment, are eligible for an accountable entertainment allowance (standing at \$36,000 per annum since 1984). However, there are no Government regulations or ICAC CSOs that clearly stipulate the application of this allowance other than the fact that claims must be made with the production of receipts.

3.14 IRC considers that the ambiguities on the use of the Commissioners' accountable entertainment allowance should be clarified.

Issue 3 – Control on Entertainments Charged to the Publicity Vote

3.15 Unlike other entertainments organised by CRD, entertainments in publicity activities (e.g. conferences, seminars and promotional events) with expenditure charged to the Publicity Vote could be approved by officers (e.g. project officers responsible for the activities) other than the Commissioner or the Director of Community Relations. Moreover, approval from the Commissioner was not required when the ceiling on expenditure per person was exceeded.

3.16 IRC considers that entertainments in publicity activities charged to the Publicity Vote should also be subject to the same level of control as other entertainments.

[Paragraphs 3.17 – 3.20 are obliterated for publication pending conclusion of relevant criminal investigation and/or prosecution (if any).]

Issue 4 –

3.17

3.18

3.19

3.20

Government Guests

3.21 ICAC has operational needs to work with other Government departments on anti-corruption matters. From time to time ICAC hosts liaison lunches/dinners for Government officers with official purposes. As Government regulations do not allow expenditure for entertaining Government officers to be charged to public funds, it is an established practice in ICAC that such expenditure is paid from the Commissioner's accountable entertainment allowance, even though the Commissioner may not attend personally.

3.22 IRC finds a non-compliance where an official lunch hosted by the Former Commissioner for Government officers from Radio Television Hong Kong was charged to the Official Entertainment Vote. IRC also finds inconsistent practice in that an official lunch hosted by the Former Commissioner for the Commissioner on Interception of Communications and Surveillance and his staff was charged to the Official Entertainment Vote but another two were paid from the Commissioner's accountable entertainment allowance.

3.23 IRC notes that in the cases mentioned above, how the expenditure was charged was not decided by the Former Commissioner who hosted the entertainments. Instead, it was advised by the offices responsible for arranging the entertainments and verified by ADM's Finance Office normally at clerical level, who might not have sufficient knowledge of the background of the guests invited. **IRC considers that improvement is required.**

Issue 5 – Level of Entertainment Expenditure

3.24 Government guidelines set out ceilings on the expenditure per person for lunch and dinner. During the term of the Former Commissioner, the number of lunch and dinner that fell within or exceeded the ceilings, after all food and beverage cost was included according to ICAC CSO, are set out below –

	Lunch & dinner within ceilings*	Lunch & dinner above ceilings*	total
Charged to Official Entertainment Vote			
(a) hosted by the Former Commissioner	129 (63%)	77 (37%)	206
(b) hosted by other ICAC officers	452 (98%)	8 (2%)	460
Charged to Publicity Vote#			
(a) hosted by the Former Commissioner	8 (80%)	2 (20%)	10
(b) hosted by other ICAC officers	42 (100%)	-	42
Charged to Commissioner's Personal Entertainment Vote			
(a) hosted by the Former Commissioner	18 (75%)	6 (25%)	24
(b) hosted by other ICAC officers	21 (100%)	-	21

* cost of food and alcoholic drinks procured separately included

entertainments in publicity activities without breakdown on expenditure are not counted

3.25 Around 37% of the 206 lunches and dinners hosted by the Former Commissioner and charged to the Official Entertainment Vote exceeded the ceilings. While exceptions are allowed if properly justified and clearly recorded, the high percentage of 37% cannot be considered as mere "exceptions". IRC is of the view that such practice has caused concerns among the public. The Former Commissioner should have ensured that entertainments hosted by ICAC adhered strictly to the principle of frugality, instead of frequently exceeded the ceilings himself. In comparison, less than 2% (8 cases in total) of the 460 lunches and dinners hosted by other ICAC

officers and charged to the Official Entertainment Vote during the term of the Former Commissioner exceeded the ceilings.

[Paragraphs 3.26 – 3.27 are obliterated for publication pending conclusion of relevant criminal investigation and/or prosecution (if any).]

3.26

3.27

3.28 ICAC has been promoting the message to both the private and public sectors that they should be conscientious in providing and accepting entertainments. Moreover, official entertainments involve the use of public money. IRC considers that it is not appropriate to offer entertainments in some of the very prestigious venues in Hong Kong at high cost. **ICAC should return to the principle of frugality and avoid extravagance in handling entertainments.**

3.29 IRC acknowledges that the Commissioner, as the Head of ICAC and its Controlling Officer designated under the Public Finance Ordinance, is entrusted with discretionary power in incurring expenditure. However, the public reactions to earlier media reports on ICAC's expenditure for entertainments, together with IRC's findings, suggest that the level of entertainment expenditure during the time of the Former Commissioner was out of line with the public expectation. In view of the special role of the Commissioner in promoting corruption prevention in Hong Kong and the potential reputational risk of indiscretion, **IRC considers that more checks and balances should be introduced.**

Issue 6 - Hard Liquor

3.30 IRC notes that the Former Commissioner started the practice of serving Maotai in official entertainments held in Hong Kong. The consumption of hard liquor attracts public concern over whether it is appropriate to discuss official matters under the influence of alcohol. Given that confidentiality is often stressed by ICAC in encouraging report of corruption cases by the public and the importance of public trust, **IRC considers that it is inappropriate for ICAC officers to serve hard liquor in official entertainments.**

Issue 7 – Dessert

3.31 The Audit Commission's report on value-for-money review of ICAC's work in preventive education and enlisting public support against corruption mentioned that after a dinner hosted by the Commissioner on 6 Dec 2011, the participants were taken to a dessert shop to try Chinese dessert. The dessert expense was treated as a separate expenditure item. The Audit Commission recommended that the costs of all food and beverages should be included as part of the lunch/dinner expenditure for control purposes. ICAC agreed with the Audit Commission and to follow up.

3.32 Based on the official entertainments reviewed, IRC has not found any other case of consuming a meal in more than one location. As to food procured separately for consumption during a lunch or dinner, IRC found that ICAC generally treated the cost as part of the expenditure for the meal.

3.33 Separately, IRC notes that ICAC generally treated cocktail receptions prior to a meal as a separate event from the meal and finds three such cases. ICAC advised IRC that as part of its follow up of the Audit Commission's report, cocktail receptions prior to a meal would also be included as part of the expenditure for the meal in future.

Other Isolated Cases of Non-compliance

3.34 IRC also finds the following isolated cases of non-compliance with rules and regulations –

- (a) for the official lunch on 27 Sep 2007, \$426.6 for procurement of alcoholic drinks was reimbursed without the necessary written approval from the Former Commissioner;
- (b) for the official dinners on 8 Oct 2008 and 31 Aug 2009, approval was granted by the Former Commissioner to exceed the ceiling on expenditure per person. However, no justifications had been recorded according to the requirement of the Government guidelines; and
- (c) for the official lunch on 2 Mar 2010, the Former Commissioner

approved a budget of \$3,500. The actual expenditure paid was \$3,638, which exceeded the approved budget but there was no covering approval.

III. Recommendations

3.35 IRC was informed by ICAC that it plans to implement the following improvements –

- (a) to tighten the procedures to control entertainment expenditure by –
 - (i) introducing a standard form to handle applications for entertainment to facilitate filling of all necessary information;
 - (ii) developing a computerized system for on-line processing of applications for entertainment expenses to ensure compliance before payment; and
 - (iii) centralising the procurement and storage of alcoholic drinks to ADM; and
- (b) to extend the practice of regular audits in OPS, which helps to ensure compliance and early detection of possible irregularities, to ICAC's other departments and ADM. The Commissioner would personally review the audit findings. To provide for checks and balances, findings of internal audit on the Commissioner's office would be submitted directly to the Advisory Committee on Corruption⁹.

3.36 Moreover, ICAC issued an internal circular on 10 Jun 2013 to ban the

⁹ The Advisory Committee on Corruption is one of the advisory committees that oversees the work of ICAC. Its terms of reference is to advise the Commissioner on any aspect of the corruption problems in Hong Kong, and to –

- (a) keep the operational, staffing and administrative policies of ICAC under review;
- (b) advise on action being considered by the Commissioner under section 8(2) of the ICAC Ordinance;
- (c) receive reports by the Commissioner on disciplinary action taken;
- (d) consider the annual estimates of expenditure of ICAC;
- (e) scrutinise the annual report of ICAC before its submission to the Chief Executive;
- (f) submit an annual report to the Chief Executive on the work of the Committee; and
- (g) draw to the Chief Executive's attention, as it considers necessary, any aspect of the work of ICAC or any problem encountered by it.

use of hard liquor in official functions.

3.37 IRC supports these initiatives which would address many of the short-comings identified and improve the control environment.

3.38 IRC has the following recommendations –

- (a) alcoholic drinks, or other food and beverage, procured separately for an entertainment should be included when determining the expenditure for an entertainment according to ICAC CSO;
- (b) the Government and the Commissioner should work together to clarify and agree on the rules that govern the use of the Commissioner's "accountable entertainment allowance", which is part of his terms of appointment;
- (c) the control for entertainments charged to the Publicity Vote should be tightened to the same level as other entertainments;
- (d) adequate record should be kept to support that the guests are invited for official purposes –
 - (i) the official purpose of the entertainment should be clearly set out;
 - (ii) the official capacity of the guests should be documented; and
 - (iii) when it is not self-explanatory, how the guests are related to the official purpose should be documented;
- (e) the Commissioner should personally decide whether the expenditure for an entertainment hosted by him should be charged to the Official Entertainment Vote, paid from his accountable entertainment allowance, or indeed by himself should it include private guests;
- (f) IRC notes that ICAC has a CSO to supplement and elaborate Government rules and regulations on entertainment. The ICAC CSO should include all relevant Government requirements to

facilitate compliance by staff, including the requirement to record justifications for exceeding the Government guidelines on expenditure per person for lunch and dinner;

- (g) should return to the principle of frugality and avoid extravagance in handling official entertainments; and
- (h) to improve checks and balances, ICAC is recommended to report regularly to the Advisory Committee on Corruption the details of official entertainments that exceed the ceilings on expenditure per person. The details to be reported should include –
 - (i) the purpose of the entertainment;
 - (ii) the number of guests;
 - (iii) the number of ICAC officers;
 - (iv) the per person expenditure; and
 - (v) the justifications for exceeding the ceilings.

PART 4: GIFTS

4.1 This Part reports on the findings and recommendations arising from IRC's review on gifts.

I. Expenditure during the Term of the Former Commissioner

4.2 During the term of the Former Commissioner, ICAC spent \$1.3 million on gifts and souvenirs, of which –

- (a) \$723,000 were attributed to the Former Commissioner or Commission-wide events ("Commission-wide" gifts); and
- (b) \$589,000 were attributed to individual departments of ICAC.

"Commission-Wide" Gifts

4.3 For the "Commission-wide" gifts, the unit cost ranged from \$1 for an eraser with ICAC logo to about \$4,140 for a tiger-shape ornament¹⁰. The vast majority were gifts of small value. The following table provides a breakdown based on the unit cost of the gifts –

Unit Cost	Quantity (% of total)	Expenditure (\$) (% of total)
< \$5	112 830 (96%)	208,000 (29%)
\$5-\$99	4 380 (3.7%)	185,000 (26%)
\$100-\$349	690 (0.6%)	140,000 (19%)
\$350-\$4,150	180 (0.2%)	190,000 (26%)
Total	118 080	723,000

Note: figures may not add up to the corresponding total due to rounding

Annex 4 Examples of the various "Commission-wide" gifts are at *Annex 4*.

¹⁰ Further details about the tiger-shape ornament are at para.4.10(e).

Gifts by individual departments of ICAC

4.4 For gifts procured by individual departments, the unit cost ranged from \$4 for a pen with ICAC logo to about \$4,750 for an eagle-shape ornament¹¹. The following table provides a breakdown based on the unit cost of the gifts –

Unit Cost	Quantity (% of total)	Expenditure(\$) (% of total)
< \$5	1 700 (21%)	7,000 (1%)
\$5-\$99	5 195 (65%)	180,000 (31%)
\$100-\$349	755 (9%)	134,000 (23%)
\$350-\$4,750	400 (5%)	267,000 (45%)
Total	8 050	589,000

Note: figures may not add up to the corresponding total due to rounding

Examples of the various gifts procured by individual departments are at Annex 5 *Annex 5*.

Year-by-Year Changes

4.5 The table below shows the year-by-year changes in expenditure for gifts during the term of the Former Commissioner –

Period	"Commission-wide" gifts (\$)	Gifts by individual departments(\$)
Jul 2007 to Jun 2008	46,000	11,000
Jul 2008 to Jun 2009	431,000	53,000
Jul 2009 to Jun 2010	150,000	87,000
Jul 2010 to Jun 2011	62,000	242,000
Jul 2011 to Jun 2012	34,000	195,000
Total	723,000	589,000

Note: figures may not add up to the corresponding total due to rounding

4.6 IRC notes that the expenditure for "Commission-wide" gifts was significantly higher during the year from Jul 2008 to Jun 2009. Moreover, the

¹¹ A gift presented by OPS when attending the grand opening ceremony of Malaysian Anti-Corruption Commission in Kuala Lumpur

expenditure for gifts by individual departments of ICAC was significantly higher during the period from Jul 2010 to Jun 2012. ICAC provided the following explanation –

- (a) expenditure for "Commission-wide" gifts from Jul 2008 to Jun 2009 – there were two major events during the period, viz the 35th anniversary of ICAC-cum-Open Day in Feb 2009 and inauguration of the Centre of Anti-Corruption Studies-cum-seminars in Apr 2009. ICAC spent around \$160,000 on souvenirs for members of the public during the Open Day and around \$56,000 on souvenirs for participants in the latter event. Besides, around \$100,000 was spent on stocking souvenir items for future presentation to visitors and to guests in official events or during duty visits; and
- (b) expenditure for gifts by individual departments from Jul 2010 to Jun 2012 – during the period, there were
 - (i) 90 duty visits undertaken by various departments; and
 - (ii) a number of major events, including five seminars to launch corruption prevention guides, the launching ceremony of the ICAC Drama Series 2011, the International Anti-Corruption Public Service Announcement Video Competition and Workshop (Dec 2011), the 5th ICAC Symposium which was attended by over 500 delegates from more than 50 jurisdictions and the Cross-boundary Anti-Corruption Animation/Comics Competition.

Higher expenditure was incurred on stocking souvenir items for presentation during duty visits and to visitors, guests attending ICAC events and competition winners.

II. Review Findings

Presentation of Gifts on Official Occasions

4.7 Since 1996, ICAC has a policy to "limit to the minimum the exchange

of gifts on official occasions. Where an exchange of gifts is unavoidable on a particular occasion, the exchange should be made from organisation to organisation". One of the foci of IRC's review is whether this long established policy was followed during the term of the Former Commissioner, in particular whether high value personal gifts had been given.

4.8 ICAC procured large quantity of low-value souvenirs for its publicity campaign. IRC believes that it is acceptable for ICAC to give out these souvenirs on official occasions, such as when receiving visitors or during duty visits.

[Paragraphs 4.9 – 4.11 are obliterated for publication pending conclusion of relevant criminal investigation and/or prosecution (if any).]

4.9

4.10

4.11

4.12 Moreover, even for gifts that were not personal in nature, IRC considers that the quantity of official gifts, after excluding the small-value souvenirs, was still considerable and some were expensive. **IRC considers that such practice was not consistent with ICAC's own policy to minimise exchange of gifts on official occasions.**

4.13 ICAC has been educating both the public and private sectors on the need to be conscientious when accepting gifts. While giving gifts is different from accepting gifts, they are two sides of the same coin. IRC considers that ICAC should comply with its long established policy, i.e. to minimise exchange of gifts on official occasions, and where unavoidable, the gifts should be exchanged among organisations.

4.14 Despite the long established policy on gifts, IRC notes that examples set by the Commissioner would have impact on how effective the policy was implemented in the whole of ICAC. IRC acknowledges that the Commissioner, as the Head of ICAC and its Controlling Officer designated under the Public Finance Ordinance, is entrusted with discretionary power in incurring expenditure. However, the public reactions to earlier media reports on ICAC's expenditure for gifts, together with IRC's findings, suggest that the giving of gifts by ICAC during the term of the Former Commissioner was not in line with the public expectation. **IRC considers that more checks and balances are required** in the case of ICAC given its special role in anti-corruption.

4.15 [Paragraph 4.15 and Annex 6 are obliterated for publication pending conclusion of relevant criminal investigation and/or prosecution (if any).]

4.16 IRC finds the following non-compliances –

(a) Quotation

For direct procurements by officers with a total value not exceeding \$5,000 to meet immediate needs, ICAC has imposed an additional requirement compared to Government regulations – ICAC CSO requires that normally more than one quotation should be obtained. Eight of the selected procurements reviewed by IRC were direct procurement by officers to meet immediate needs¹². Seven of them did not comply with the additional requirement. Reasons for not obtaining more than one quotation were not recorded.

(b) **[Paragraph 4.16(b) is obliterated for publication pending conclusion of relevant criminal investigation and/or prosecution (if any).]**

4.17 IRC considers that the control of procurement process in ICAC should be strengthened to ensure that relevant rules and regulations are being complied with.

¹² Including the direct procurement of eight digital photo frames mentioned in para. 4.16(b).

III. Recommendations

4.18 Based on the above findings, IRC has the following recommendations –

- (a) ICAC should comply with its long established policy to minimise exchange of gifts on official occasions, and where unavoidable the gifts should be exchanged among organisations;
- (b) to draw up a list of standard gifts to be reviewed and supported by the Advisory Committee on Corruption, and to report regularly to the Advisory Committee on Corruption non-standard gifts presented, their values and recipients; and
- (c) the control of procurement process should be strengthened to ensure that relevant rules and regulations are being complied with. ICAC should make sure that its officers obtain more than one quotation when making direct procurement to meet immediate needs, as required by ICAC CSO. Exceptions should be properly justified and recorded.

PART 5: DUTY VISITS

5.1 This Part reports on the findings and recommendations arising from IRC's review on duty visits.

I. Expenditure during the Term of the Former Commissioner

5.2 During the term of the Former Commissioner, ICAC conducted a total of 413 duty visits. These duty visits incurred expenditures of \$6.2 million for procurement of air passages and \$6.4 million for subsistence allowance and other expenses.

5.3 Of the 413 duty visits, 35 were led by the Former Commissioner. The expenditure for the 35 duty visits was \$4.0 million.

II. Review Findings

Non-official Elements in Duty Visits of the Former Commissioner

5.4 IRC notes that the number of duty visits led by the Former Commissioner, 35 in five years, was not particularly high compared to his predecessors and taking into account ICAC's enhanced involvement in IAACA¹³.

5.5 IRC has reviewed all duty visits led by the Former Commissioner and considers that the following two duty visits involved excessive non-official duty related activities –

- (a) Beijing-Kunming-Lijiang (11-17 Jan 2009); and
- (b) Beijing-Chengdu-Leshan (16-23 May 2010).

Annexes 7&8 The itineraries of the two duty visits are at *Annexes 7 and 8*. The visits to Lijiang and Leshan involved mainly sightseeing activities. Both visits were organised by CRD.

¹³ IAACA – International Association of Anti-Corruption Authorities

5.6 For the duty visit to Beijing-Chengdu-Leshan in May 2010, IRC finds that there was a note from the Former Commissioner asking CRD to explore the feasibility of returning to Hong Kong one day earlier, i.e. on 22 instead of 23 May 2010. When asked by IRC on why the duty visit was not shortened particularly after a meeting with senior Sichuan officials was advanced from 22 May 2010 to 21 May 2010, CRD explained that it was either because of unavailability of air-tickets or heavy charges for rescheduling flights. However, ADM advised IRC that they did not recall any request to change schedule and had not found any records that such an option had been explored with airlines.

5.7 **[Paragraph 5.7 is obliterated for publication pending conclusion of relevant criminal investigation and/or prosecution (if any).]**

5.8 It is noted that the Former Commissioner had one free day on 19 May 2010 during his visit to Beijing. He made a private visit to the Military Museum of the Chinese People's Revolution and was accompanied by some of his staff. The Former Commissioner stated that this was due to the cancellation of a meeting due to protocol consideration (non-availability of a counterpart of similar seniority).

5.9 **IRC considers that ICAC should conscientiously avoid non-official elements in duty visits.**

5.10 IRC notes that in the Former Commissioner's applications to the Chief Executive seeking approval for the two duty visits, reference was made

only to visiting Yunnan and Sichuan. There was no specific mention that the itineraries would cover Lijiang and Leshan. **IRC considers that the omissions were inappropriate.**

Procurement of Air Passages

5.11 IRC selected all the 22 duty visits that involve upgrading of air passages to Business Class to review whether compliance with the regulatory systems and procedures on procurement of air passages had been met. The expenditure for air passages of these 22 duty visits was \$3.2 million, representing more than 50% of the expenditure for air passages during the term of the Former Commissioner.

5.12 IRC finds the following non-compliances –

- (a) no approval (which could be granted by the Commissioner for flights over nine hours) was found for the upgrading of air passages to Business Class by two officers who accompanied the Former Commissioner to an IAACA meeting in Brazil in Apr 2010. The upgraded air passages for the two officers cost \$186,000 in total. This could be a procedural neglect;
- (b) in 14 duty visits, specific airlines and flights were already identified when inviting quotations for air passages, but no justifications were provided to exclude alternatives. The Government Logistics Department, which advised Government departments on procurement matters, informed IRC that competition would be precluded by such practice; and
- (c) in four duty visits, procurement orders for air passages of the Former Commissioner were issued before approval for the duty visits from the Chief Executive had been obtained. It should be noted that cancellation of the air passages was allowed subject to cancellation charges.

5.13 Moreover, when reviewing the duty visit to Beijing-Chengdu-Leshan (16-23 May 2010), IRC finds that the Former Commissioner left Hong Kong on 14 May 2010, two days earlier, for private reasons. The Former

Commissioner did not claim subsistence allowance for 14 and 15 May 2010. However, approval from the Chief Executive was still required to modify the air passage for private reasons and no approval has been found.

5.14 ICAC has promulgated a CSO on procurement of duty passages, which sets out the approving authorities for matters relating to duty passages for all ranks of staff, except those for the Commissioner. Moreover, while the CSO requires ICAC officers to provide the approval in writing for duty visits when requesting the Supplies Office of ADM to procure air passages, ICAC advised IRC that the requirement did not apply to the Commissioner. The lack of approval mentioned in para. 5.12(c) and 5.13 would have been identified if the Former Commissioner was required to provide the approval in writing for his duty visits to the Supplies Office of ADM for procurement of air passages.

5.15 IRC considers that the Commissioner has to comply with rules and regulations. **Approving authorities for matters relating to duty passages for the Commissioner, like those for other ICAC officers, should be set out clearly in the ICAC CSO on procurement of duty passages. Proof of approval for the Commissioner's duty visits should be provided to the Supplies Office of ADM to facilitate compliance checking and follow-up, in line with the requirement for other officers.**

5.16 IRC finds that OPS uses a standard form to handle approval for duty visits and request for procurement of air passages, while other departments in ICAC uses various formats, including emails, memorandum or file minutes. **IRC considers that ICAC should unify its internal practice by adopting a standard form, which may also help reduce non-compliances such as the case mentioned in para. 5.12(a).**

Subsistence Allowance and Other Expenses

5.17 IRC selected 76 duty visits to review whether compliance with the regulatory systems and procedures on claims for subsistence allowance and other expenses arising from duty visits had been met. These include –

- (a) all the duty visits led by the Former Commissioner that involved claims for subsistence allowance and other expenses; and

- (b) about 10% of the remainder.

5.18 IRC finds the following non-compliances which were likely due to oversights –

- (a) the required approval is not found for the claim of \$2,333 conference fee by an ICAC officer who attended the 4th IAACA Annual Conference and General Meeting in Macao in Nov 2010. Claims by other ICAC officers attending the event were in order; and
- (b) the required approvals are not found for two claims of visa fees by the Former Commissioner –
 - (i) visa fee of \$138 for a duty visit to Australia in Oct 2007; and
 - (ii) visa fee of \$122 for a duty visit to Taiwan in Dec 2009.

III. Recommendations

5.19 Based on the above findings, IRC has the following recommendations –

- (a) to conscientiously avoid non-official elements in official duty visits;
- (b) the Commissioner should inform the Chief Executive of all specific locations he would visit when seeking approval for duty visits;
- (c) more competition should be allowed when inviting quotation for air passage. If it is necessary to specify the airline and the flight, justifications should be provided and recorded;
- (d) approving authorities for matters relating to duty passages for the Commissioner, like those for other ICAC officers, should be set out clearly in the ICAC CSO on procurement of duty passages. Proof of approval for the Commissioner's duty visits should also be provided to the Supplies Office of ADM to facilitate compliance checking and

follow-up, in line with the requirement for other officers;

- (e) ICAC should unify its internal practice by adopting a standard form to handle approval for duty visits and request for procurement of air passages; and
- (f) approval should be obtained for all upgrading of air passages.

PART 6: SUMMARY OF NON-COMPLIANCES AND SHORT-COMINGS

6.1 The following summarises the non-compliances and short-comings identified by IRC from its review on official entertainment, gifts and duty visits during the term of the Former Commissioner –

Official Entertainment

Non-compliances

- (a) CRD and the Office of Strategic Research did not include the cost of alcoholic drinks procured separately in expenditure for entertainments according to ICAC CSO [para. 3.7-11];
- (b) official entertainments in publicity activities with expenditure charged to the Publicity Vote were subject to less stringent control procedures compared to other entertainments [para. 3.15];
- (c) **[Paragraph 6.1(c) is obliterated for publication pending conclusion of relevant criminal investigation and/or prosecution (if any).]**
- (d) expenditure for some entertainments with all guests coming from the Government was charged to the Official Entertainment Vote [para. 3.21-22];
- (e) other isolated cases of non-compliances [para. 3.34] –
 - (i) on one occasion, the payment for procurement of alcoholic drinks was reimbursed without the necessary approval;
 - (ii) on two occasions, justifications for exceeding the Government guidelines' ceilings on expenditure per person had not been recorded; and
 - (iii) on one occasion, the expenditure paid exceeded the approved budget;

Short-comings

- (f) stocks of alcoholic drinks were kept by various units in ICAC. Each unit maintained records of the stocks on their own initiative and in different formats [para. 3.5];
- (g) there are ambiguities on the use of the Commissioner's "accountable entertainment allowance", which is part of his terms of appointment [para. 3.13];
- (h) around 37% of the lunches and dinners hosted by the Former Commissioner and charged to the Official Entertainment Vote exceeded the Government guidelines' ceilings on expenditure per person. Some of them were very expensive. While exceptions are allowed, the high percentage of 37% cannot be considered as mere "exceptions" [para. 3.24-27];
- (i) serving of hard liquor at official entertainments attracts public concern over whether it is appropriate to discuss official matters under the influence of alcohol [para. 3.30];

Gifts

Non-compliances

- (j) the quantity of official gifts given out was considerable and some were expensive. The practice was not in line with ICAC's long established policy. Furthermore, some of them were personal gifts in nature. Presenting such gifts was inappropriate in view of the role of ICAC [para. 4.7-12];
- (k) non-compliances in the procurement process [para. 4.16] –
 - (i) seven procurements did not follow ICAC CSO's requirement to obtain more than one quotation. Reasons for not complying were not recorded; and

- (ii) **[Paragraph 6.1(k)(ii) is obliterated for publication pending conclusion of relevant criminal investigation and/or prosecution (if any).]**

Duty Visits

Non-compliances

- (l) the following two duty visits involved excessive non-official duty related activities [para. 5.5-10] –
 - (i) Beijing-Kunming-Lijiang (11-17 Jan 2009); and
 - (ii) Beijing-Chengdu-Leshan (16-23 May 2010).

In the Former Commissioner's applications to the Chief Executive seeking approval for the two duty visits, reference was made only to visiting Yunnan and Sichuan. There was no specific mention that the itineraries would cover Lijiang and Leshan;

- (m) non-compliances in the procurement of air passages [para. 5.12-13] –
 - (i) no approval was found for the upgrading of air passages to Business Class by two officers in a duty visit to Brazil;
 - (ii) in 14 duty visits, specific airlines and flights were already identified when inviting quotations for air passages, but no justifications were provided to exclude alternatives. Such practice would preclude competition;
 - (iii) in four duty visits, procurement orders for air passages of the Former Commissioner were issued before approval for the duty visits from the Chief Executive had been obtained; and
 - (iv) for the duty visit to Beijing-Chengdu-Leshan (16-23 May 2010), the Former Commissioner left Hong Kong two days earlier for private reasons. IRC has not found the required approval from

the Chief Executive to modify the air passage for private reasons;

- (n) non-compliances in the claims for subsistence allowance and other expenses of duty visits, which were likely due to oversights [para. 5.18] –
 - (i) on one occasion, IRC has not found the required approval for the claim of \$2,333 conference fee; and
 - (ii) IRC has not found the required approvals for two claims of visa fees (\$260 in total) by the Former Commissioner;

Short-comings

- (o) ICAC's CSO on procurement of duty passages does not include the approving authorities for matters relating to duty passages for the Commissioner, as in the case of other officers. Moreover, the Commissioner is not subject to the requirement that written approval of duty visits has to be provided to the Supplies Office for procurement of duty passages [para. 5.14]; and
- (p) OPS has introduced a standard form to handle approval for duty visits and request for procurement of air passages. Such practice has not yet been adopted by other ICAC departments [para. 5.16].

PART 7: SUMMARY OF RECOMMENDATIONS

7.1 IRC supports the following improvements recently initiated by ICAC [para. 3.35-37] –

- (a) to tighten the procedures to control entertainment expenditure by –
 - (i) introducing a standard form to handle applications for entertainment to facilitate filling of all necessary information;
 - (ii) developing a computerized system for on-line processing of applications for entertainment expenses to ensure compliance before payment; and
 - (iii) centralising the procurement and storage of alcoholic drinks to ADM;
- (b) to extend the practice of regular audits in OPS to ICAC's other departments and ADM. The Commissioner would personally review the audit findings. To provide for checks and balances, findings of internal audit on the Commissioner's office would be submitted directly to the Advisory Committee on Corruption; and
- (c) to ban the use of hard liquor in official functions.

7.2 For further improvements, IRC has the following recommendations –

Entertainment [para. 3.38]

- (a) alcoholic drinks, or other food and beverage, procured separately for an entertainment should be included when determining the expenditure for an entertainment according to ICAC CSO;
- (b) the Government and the Commissioner should work together to clarify and agree on the rules that govern the use of the Commissioner's "accountable entertainment allowance", which is part of his terms of appointment;

- (c) the control for entertainments charged to the Publicity Vote should be tightened to the same level as other entertainments;
- (d) adequate record should be kept to support that the guests are invited for official purposes –
 - (i) the official purpose of the entertainment should be clearly set out;
 - (ii) the official capacity of the guests should be documented; and
 - (iii) when it is not self-explanatory, how the guests are related to the official purpose should be documented;
- (e) the Commissioner should personally decide whether the expenditure for an entertainment hosted by him should be charged to the Official Entertainment Vote, paid from his accountable entertainment allowance, or indeed by himself should it include private guests;
- (f) the ICAC CSO on entertainment should include all relevant Government requirements to facilitate compliance by staff, including the requirement to record justifications for exceeding the Government guidelines on expenditure per person for lunch and dinner;
- (g) should return to the principle of frugality and avoid extravagance in handling official entertainments;
- (h) ICAC is recommended to report regularly to the Advisory Committee on Corruption the details of official entertainments that exceed the ceilings on expenditure per person. The details to be reported should include –
 - (i) the purpose of the entertainment;
 - (ii) the number of guests;
 - (iii) the number of ICAC officers;

- (iv) the per person expenditure; and
- (v) the justifications for exceeding the ceilings;

Gifts [para. 4.18]

- (i) ICAC should comply with its long established policy to minimise exchange of gifts on official occasions, and where unavoidable the gifts should be exchanged among organisations;
- (j) to draw up a list of standard gifts to be reviewed and supported by the Advisory Committee on Corruption, and to report regularly to the Advisory Committee on Corruption non-standard gifts presented, their values and recipients;
- (k) the control of procurement process should be strengthened to ensure that relevant rules and regulations are being complied with. ICAC should make sure that its officers obtain more than one quotation when making direct procurement to meet immediate needs, as required by ICAC CSO. Exceptions should be properly justified and recorded;

Duty Visits [para. 5.19]

- (l) to conscientiously avoid non-official elements in official duty visits;
- (m) the Commissioner should inform the Chief Executive of all specific locations he would visit when seeking approval for duty visits;
- (n) more competition should be allowed when inviting quotation for air passage. If it is necessary to specify the airline and the flight, justifications should be provided and recorded;
- (o) approving authorities for matters relating to duty passages for the Commissioner, like those for other ICAC officers, should be set out clearly in the ICAC CSO on procurement of duty passages. Proof of approval for the Commissioner's duty visits should also be provided to the Supplies Office of ADM to facilitate compliance checking and

follow-up, in line with the requirement for other officers;

- (p) ICAC should unify its internal practice by adopting a standard form to handle approval for duty visits and request for procurement of air passages; and
- (q) approval should be obtained for all upgrading of air passages.

PART 8: CONCLUSIONS

8.1 Public officers should always be prudent when using public funds. In offering entertainment, gifts and conducting duty visits, they should always adhere to the principle of frugality and avoid extravagance. This is particularly important in the case of ICAC which is held in very high regard by the public. Hong Kong takes great pride in its international standing as a clean society and ICAC has played an important part in this achievement. The Hong Kong public therefore has a very high expectation that ICAC and its Commissioner would observe the highest standard of public conduct.

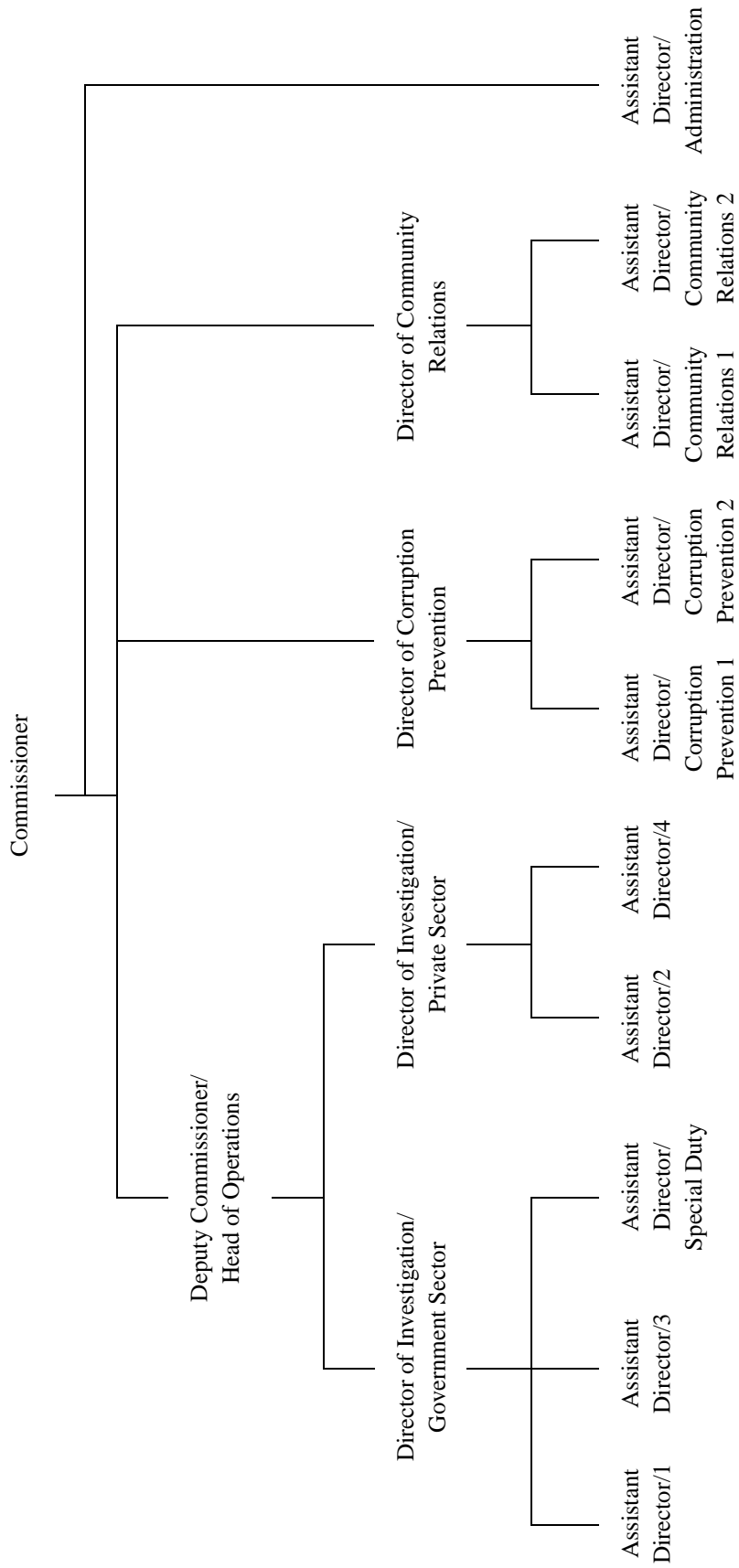
8.2 **[Paragraph 8.2 is obliterated for publication pending conclusion of relevant criminal investigation and/or prosecution (if any).]**

8.3 In the meantime, IRC observes that many ICAC officers are indeed very conscientious of their mission and have conducted themselves with discipline. It is inevitable that the negative publicity surrounding the Former Commissioner's handling of official entertainment, gifts and duty visits has put pressure on frontline ICAC staff in their work against corruption. However, many of them spoke about their continuous commitment which has not been weakened by recent events. They remain resolutely determined in performing their duties.

8.4 IRC hopes that its findings and recommendations would contribute to

improving the control process on official entertainment, gifts and duty visits in ICAC. IRC also hopes that the implementation of these improvements would assist ICAC to regain its very high standing in the society in its fight against corruption.

**Organisation Chart of ICAC
(showing posts at D2 and above as at 1 Aug 2013)**



Current and Former ICAC Officers Met by IRC

Mr PEH Yun-lu, Simon, Commissioner (Jul 2012 – present)

Mr Timothy TONG, former Commissioner (Jul 2007 – Jun 2012)

Mrs HUI LAM Yin-ming, Erika, former Director of Community Relations
(Apr 2004 – Sep 2007, left ICAC)

Mr CHAN Chi-sun, Thomas, former Director of Community Relations
(Oct 2007 – Sep 2008, left ICAC)

Ms MU Fee-man, Julie, Director of Community Relations (Oct 2008 – present)

Mr TSE Man-shing, former Assistant Director of the Administration Branch
(Aug 2006 – Oct 2008, currently Director of Corruption Prevention)

Mrs WONG CHEUK Wai-kuen, former Assistant Director of the Administration
Branch (Oct 2008 – Dec 2011, left ICAC)

Mr YAU Shu-chun, former Assistant Director of the Administration Branch
(Jan 2012 – Sep 2012, currently Director of Investigation (Private Sector))

Mrs AUYEUNG WONG Mei-fong, Jennie, Assistant Director of the Administration
Branch (Sep 2012 – present)

Mrs LEE CHING Po-han, Helen, former Principal Liaison Officer, Hong Kong
Mainland Liaison Office, Community Relations Department (Aug 2005 – Oct
2012, currently Principal Mass Communication Officer)

Mr MAK Wai-keung, Diman, former Senior Staff Officer, Office of Strategic
Research (Aug 2007 – Jan 2011, currently Chief Investigator of Operations
Department)

Ms TSANG Yee-ling, Louisa, former Staff Officer and Senior Staff Officer, Office of
Strategic Research (Aug 2007 – May 2011, currently Chief Corruption
Prevention Officer of Corruption Prevention Department)

Some Staff Representatives of the Commission's Staff Consultative Committee

ICAC Form 569

Seeking of Approval for Entertainment Expenditure

PART I (To be completed by Subject Officer and submitted through Recommending Officer)

To: C* / H/OPS* / DCR* via _____ File Ref: _____
Approving Officer Recommending Officer (Name and Post)

The following entertainment function is submitted for your prior approval -

<u>Date</u>	<u>Nature</u> (e.g. lunch /dinner)	<u>ICAC Officer(s)</u> who will attend (name & post)	<u>Guest(s)</u> (name, post & organisation)	<u>Entertainment</u> Venue	<u>Estimated</u> expenditure including beverages & tips (\$)	<u>Justifications for the Entertainment</u>
-------------	---------------------------------------	--	--	-------------------------------	--	---

* I confirm that the expenditure per head will not exceed the ceiling as stipulated in CSO Pt. I Chapter 25 Section 04.

* The expenditure per head will exceed the ceiling as stipulated in CSO Pt. I Chapter 25 Section 04. The justification(s) is/are _____

Signature: _____

Date: _____

Subject Officer (Name and Post): _____

* Delete as appropriate.

PART II

To: _____ via **EO/F** (for noting funding commitment after approval)
Subject Officer (Name and Post)

The above entertainment is approved* / not approved*.

Signature: _____ Date: _____
Approving Officer (Name and Post):

PART III (To the Finance Office for payment processing after the entertainment)

To: EO/F via _____ File Ref: _____
Supervising Officer (Name and Post)

Please refer to the approval in Part II and the attached duly certified invoice* / receipt* and arrange payment* / reimbursement* as follows:

Amount in figures: _____

Amount in words: _____

Full name of payee: _____
(HKID No.) _____

Signature: _____ Date: _____
Subject Officer (Name and Post):

* Delete as appropriate.

Examples of "Commission-wide" Gifts

Gifts	Quantity	Unit cost (\$)
All gifts with unit cost <\$5		
Eraser with ICAC logo	20 000	1
Memo pad	40 000	2
Coaster	8 830	2
Pen	34 000	2
Non-woven shopping bag	10 000	4
Examples of gifts with unit cost in the range of \$5 – \$99		
Lanyard with card-holder	350	15
ICAC key-ring	201	15 – 20
ICAC pin	834	15 – 20
Photo frame	1 233	40
Pen	741	65 – 100
Edible gifts (biscuits, cookies, Chinese cakes, chocolate, etc.)	600	5 – 100
Examples of gifts with unit cost in the range of \$100 – \$349		
ICAC Building model	34	100 – 280
ICAC plaque	148	100 – 290
Edible gifts (biscuits, cookies, Chinese cakes, chocolate, mooncakes, etc.)	184	105 – 250
Pen	233	126 – 295
Photo frame	20	300
All gifts with unit cost in the range of \$350 - \$4,150		
ICAC Building model	33	360 – 480
Stamp Album	10	550
ICAC plaque	3	360 - 650
Crystal junk	1	675
Chocolate	1	680
Cooked food (beef brisket and fish ball)	2	815
Tankard	5	1,580
Camera	1	1,650
Pen	84	350 – 1,650
Digital photo frame	8	590 – 1,890

Gifts	Quantity	Unit cost (\$)
Wine	1	1,960
Scarf	3	400 – 2,090
Goat-shape ornament	1	2,380
Hong Kong Skyline model	28	1,200 – 2,350
Tiger-shape ornament	1	4,140

Examples of Gifts Procured by ICAC's Individual Departments

Gifts	Quantity	Unit cost (\$)
All gifts with unit cost <\$5		
Pen	1 700	4
Examples of gifts with unit cost in the range of \$5 – \$99		
ICAC pin	486	20
ICAC cufflink	193	25 – 30
ICAC key ring	372	15 – 35
Mug holder	205	60 – 65
Pen	2 193	10 – 75
Edible gifts (Chocolate, Chinese cakes, dried beef)	63	30 – 100
Ceramic card stand	70	100
Examples of gifts with unit cost in the range of \$100 – \$349		
ICAC watch	270	150
Coffee cup	50	180
Edible gifts (cookies, Chinese cakes, mooncakes)	29	148 – 200
Pen holder	43	190 – 240
ICAC Building model	212	100 – 280
Crystal stand	25	280
ICAC plaque	123	100 – 310
All gifts with unit cost in the range of \$350 - \$4,150		
ICAC Building model	115	360 – 400
ICAC plaque	119	360 – 650
Crystal trophies	12	600
Ceramic art-piece	118	450 – 800
Hong Kong Skyline model	32	1,300 – 1,950
Pen	5	2,170
Eagle-shape ornament	1	4,730

Annex 6

[Annex 6 is obliterated for publication pending conclusion of relevant criminal investigation and/or prosecution (if any).]

Itinerary of the Visit to Beijing-Kunming-Lijiang (Jan 2009)

11 Jan 2009 (Sunday)

- PM
- Arrived at Beijing
 - Dinner with the staff of the Liaison Office of the Central People's Government in the HKSAR who had assisted in organizing the trip

12 Jan 2009 (Monday)

- AM
- Visit to the Supreme People's Procuratorate (SPP)
- Noon
- Lunch with academics of the Beijing Normal University
- PM
- Visit to the Legislative Affairs Committee, National People's Congress
 - Visit to the Hong Kong and Macao Affairs Office of State Council
- Evening
- Dinner hosted by SPP

13 Jan 2009 (Tuesday)

- AM
- Visit to the Ministry of Supervision
- PM
- Lunch with academics
(from Peking University, Tsinghua University, China University of Political Science and Law, and Renmin University of China)
 - Visit to the National Stadium and the National Aquatics Centre

14 Jan 2009 (Wednesday)

- AM
- Visit to the Discipline Inspection Group, Supervision Dept and Institute of Monetary of the Chinese Academy of Social Sciences
- Noon
- Lunch with former Director of the General Administration of Customs

- PM
- The Former Commissioner and part of the delegation took flight to Kunming, other members returned to Hong Kong

15 Jan 2009 (Thursday)

- AM
- Visit to the Yunnan Provincial People's Procuratorate
 - Meeting with the Standing Committee Member of Provincial Committee, Secretary of Provincial Political Science and Law Commission of Yunnan
- Noon
- Lunch hosted by the Standing Committee Member of Provincial Committee, Secretary of Provincial Political Science and Law Commission of Yunnan
- PM
- Flight from Kunming to Lijiang
- Evening
- Dinner hosted by the Lijiang Municipal People's Procuratorate

16 Jan 2009 (Friday)

- AM
- Meeting with the Lijiang Municipal People's Procuratorate
 - Visit to Jade Dragon Snow Mountain
- PM
- Visit to Shuhe Old Town
- Evening
- Dinner hosted by the Lijiang Municipal Committee

17 Jan 2009 (Saturday)

- AM
- Returned to Hong Kong via Kunming

Itinerary of the Visit to Beijing-Chengdu-Leshan (May 2010)

16 May 2010 (Sunday)

- PM
- Arrived at Beijing

17 May 2010 (Monday)

- AM
- Visit to the Head of Discipline Inspection Group, Central Commission for Discipline Inspection, State Administration of Radio, Film and Television
- Noon
- Lunch hosted by the State Administration of Radio, Film and Television
- PM
- Visit to the Minister of Supervision
 - Meeting with Ministry of Supervision (MoS) and National Bureau of Corruption Prevention
- Evening
- Dinner hosted by MoS

18 May 2010 (Tuesday)

- AM
- Visit to the Director of Supervision Department, Chinese Academy of Social Science
- Noon
- Director of Community Relations attended lunch hosted by Supreme People's Procuratorate
- PM
- Visit to the academics specialized in anti-corruption studies
- Evening
- Dinner with academics specialized in anti-corruption studies

19 May 2010 (Wednesday)¹⁴

- AM
- Representative of Hong Kong Centre of Anti-Corruption Studies met with academics of Chinese Academy of Social Science, Peking University and Tsinghua University

¹⁴ There was no official programme for the Former Commissioner for the whole day. In the morning, the Former Commissioner, the Director of Community Relations and two officers visited the Military Museum of the Chinese People's Revolution. The Director of Community Relations and one officer left around 11 am for the visit to the Institute of Discipline Inspection and Supervision.

- PM
- The Director of Community Relations visited the Vice President of Institute of Discipline Inspection and Supervision
 - Some delegation members returned to Hong Kong

20 May 2010 (Thursday) (Joined by another ICAC officer who flew in to Chengdu)

- AM
- The Former Commissioner and part of the delegation took flight to Chengdu
- PM
- Visit to Guanghan City Sanxingdui Museum
 - Meeting with Director of Sichuan Provincial Supervision Department
 - Dinner hosted by Sichuan Provincial Supervision Department

21 May 2010 (Friday)

- AM
- Visit to earthquake reconstruction projects, including Provincial Road 303 Yingwo Highway and Cui Yue Hu Minxing District of Dujiangyan City
- PM
- Meeting with Sichuan Provincial Supervision Department and Commission for Discipline Inspection and Supervision
 - Visit to the Vice Governor of Sichuan Provincial People's Government
 - Dinner hosted by the Vice Governor of Sichuan Provincial People's Government

22 May 2010 (Saturday)

- AM
- Visit to Leshan Grand Buddha, arranged by the Standing Committee Member, Secretary of Municipal Commission for Discipline Inspection of Leshan City
- PM
- Visit to Emeishan City and Emeishan
 - Meeting with the Standing Committee Member, Secretary of Municipal Commission for Discipline Inspection, Vice Secretary of Municipal Commission for Discipline Inspection, Director and officials of Municipal Supervision Department of Leshan City

- Dinner hosted by the Standing Committee Member, Secretary of Municipal Commission for Discipline Inspection of Leshan City

23 May 2010 (Sunday)

AM

- Returned to Hong Kong

List of Abbreviations

ADM	Administration Branch, ICAC
AD/ADM	Assistant Director of the Administration Branch, ICAC
“Commission-wide” gifts	gifts attributed to the Former Commissioner or Commission-wide events
CPD	Corruption Prevention Department, ICAC
CRD	Community Relations Department, ICAC
CSO	Commission standing order
IAACA	the International Association of Anti-Corruption Authorities
ICAC	Independent Commission Against Corruption
IRC	Independent Review Committee on ICAC’s Regulatory Systems and Procedures for handling Official Entertainment, Gifts and Duty Visits
OPS	Operations Department, ICAC
the Chief Executive	the Chief Executive of the Hong Kong Special Administrative Region
the Former Commissioner	Mr Timothy TONG, former Commissioner, ICAC (Jul 2007 – Jun 2012)