



Australasian Council of Public Accounts Committees (ACPAC) 2017

Session 2 – Strategic Reviews of Auditors-General

**Presented by Mr Danny Pearson, MP, Chair, Public Accounts and Estimates
Committee, Parliament of Victoria**

Introduction

The need for an effective and independent Auditor-General is almost universally accepted as a hallmark of our democratic institutions. The Auditor-General plays a pivotal role in supporting Parliament in its function of authorising and supervising the spending of public money by the executive. It is therefore important that the legislative framework enables the Auditor-General to play that role.

Premier of Victoria, Legislative Assembly, Victorian Parliamentary Debates,
11 November 1999, p. 366

The independence of the Auditor-General from executive direction is enshrined in Victoria's legislation along with an accountability framework. The Auditor-General is accountable for the performance or exercise of the functions, duties and powers attached to the office, and for the public resources applied in the process. The Public Accounts and Estimates Committee (PAEC) has an active role to play in that accountability framework.

Role of Public Accounts Committee's in the strategic reviews of Auditors-General

In preparing this presentation, I looked to see what strategic review roles other Public Accounts Committees have. The strategic review roles, not surprisingly, all have a legislative basis and encompass both financial and performance audits. But not all Public Accounts Committees (PACs) have a role in this regard. The frequency of the reviews and scope vary. The process by which different parties are consulted and who makes the appointments also differ.

In Victoria, at least every three years, the Committee must recommend to both Houses who should be appointed to determine whether the Auditor-General and his office are achieving their objectives effectively and doing so economically and efficiently and in compliance with the Audit Act (1994). Whether the cycle should be changed to at least every four years has been a matter of ongoing debate with the move to fixed parliamentary terms. In contrast the Commonwealth can audit at any time, whilst in Tasmania, Western Australia and Queensland the review is only required at least once in every five years.

Role of the Victorian Public Accounts and Estimates Committee

I won't run through all of the differences and similarities between PAC's strategic review function but I will highlight what the Victorian PAEC is responsible for

In Victoria, the PAEC is responsible for not only recommending the appointment of an independent auditor to undertake a performance audit of the Auditor-General and Auditor-General's office; but also recommending the appointment of an auditor to undertake annual financial audits of the Auditor-General's office.

In the last iteration, the selection of the performance auditor was made through an open tender process. The appointment of the financial auditor was made through a selective tender process. The financial auditor was appointed for up to three consecutive years.

Challenges

The Committee experienced a number of challenges in the most recent round of appointments, which are most likely not unique to Victoria. However, the performance audit was overseen by the Committee in parallel with an investigation by the Committee into an allegations made against the then Auditor-General – Mr John Doyle – by a member of his staff, which made for a somewhat complex operating environment.

Two of the more routine challenges included:

1. Perceived and real conflicts of interest

The Committee experienced some difficulties in assessing the tenders for the performance auditor and financial auditor within the provisions of the *Audit Act (1994)*.

There are several exclusions to the appointment of a performance auditor of VAGO set out in the Act. Section 19(2A) specifically states that 'None of the following can be appointed to conduct an audit under this section' —

- a. a person under contract to assist in the performance of any function of the Auditor-General (s. 7F)
- b. a person who holds a delegation from the Auditor-General (under section 7G)
- c. the independent auditor who conducts the financial audit of VAGO.

Some tenderers for the performance audit advised the Committee that this provision could be managed with the use of staff members within their firm who were not currently involved in contractual engagements with VAGO.

According to the *Interpretation of Legislation Act 1984*, the definition of 'person' includes 'a body politic or corporate as well as an individual'. This raised doubts as to whether the tenderers were eligible to be appointed as the Performance Auditor under Section 19(2A).

The Committee sought legal advice from the Victorian Government Solicitor's Office. The advice provided was that a person and/or firm cannot be appointed as the performance auditor for the Auditor-General and VAGO, whilst other staff members within the same firm are carrying out contractual engagements on behalf of VAGO.

2. The limited pool of candidates

To proactively manage any perceived or real conflicts of interest, before the Request for Tender for the financial auditor of VAGO was issued, the Committee requested that VAGO provide a list of firms which it had engaged for contracted technical assistance under

Section 7F of the Audit Act 1994. In 2015-16 VAGO had contracted 21 firms for performance audit engagements and 25 firms for financial audit engagements.¹

As a result, there was a limited resource pool of firms with public sector auditing experience from which the Committee could recommend a financial auditor to the Parliament.

Conclusion

The Committee is always open to exploring way of improving its strategic review function. This paper raises a number of questions for PACs to consider:

- What are the benefits and shortcomings associated with separate appointments (NSW, Victoria, Queensland) for the financial and performance audits as opposed to an auditor with a dual role, which is currently the case in the Commonwealth jurisdiction?
- Should the Treasurer be consulted in making the appointment, as is the case in Tasmania?
- Should the performance audit include a legislative review of the Auditor-General Act, as has been the case in Western Australia?

Perhaps most importantly:

- Are strategic reviews meeting Parliaments' needs? What benefits are Auditor-Generals deriving from the strategic review process?

I look forward to the discussion and questions arising from this ACPAC session.

¹ Committee calculations based on Victorian Auditor-General's Office (VAGO), *Annual Report 2015-16* (2016), pp.77, 78