



PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

SEVENTY-FIFTH REPORT TO THE PARLIAMENT

**REPORT ON THE APPOINTMENT OF A PERSON TO
CONDUCT THE PERFORMANCE AUDIT OF THE
VICTORIAN AUDITOR-GENERAL'S OFFICE**

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Parliament of Victoria

Public Accounts and Estimates Committee

*Report on the Appointment of a person to conduct the
performance audit of the Victorian Auditor-General's Office*

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PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE MEMBERSHIP – 56TH PARLIAMENT

Bob Stensholt, MP (Chair)

Kim Wells, MP (Deputy Chair)

Greg Barber, MLC

Richard Dalla-Riva, MLC

Judith Graley, MP

Janice Munt, MP

Martin Pakula, MLC

Gordon Rich-Phillips, MLC

Robin Scott, MP

Bill Sykes, MP

This inquiry was undertaken by a Sub-Committee consisting of the following members:

Bob Stensholt, MP (Chair)

Kim Wells, MP (Deputy Chair)

Richard Dalla-Riva, MLC

Janice Munt, MP

For this inquiry, the Committee was supported by a secretariat comprising:

Manager, Joint Committee Administration Office: Mark Roberts

Director, Organisation Development and Finance
Department of Parliamentary Services: Peter Lochert

Office Manager: Karen Taylor

DUTIES OF THE COMMITTEE

The Public Accounts and Estimates Committee is a joint parliamentary committee constituted under the *Parliamentary Committees Act 2003*.

The Committee comprises ten Members of Parliament drawn from both Houses of Parliament.

The Committee carries out investigations and reports to Parliament on matters associated with the financial management of the state. Its functions under the Act are to inquire into, consider and report to the Parliament on:

- any proposal, matter or thing concerned with public administration or public sector finances; and
- the annual estimates or receipts and payments and other Budget Papers and any supplementary estimates of receipts or payments presented to the Assembly and the Council.

The Committee also has a number of statutory responsibilities in relation to the Office of the Auditor-General. The Committee is required to:

- recommend the appointment of the Auditor-General and the independent performance and financial auditors to review the Victorian Auditor-General's Office;
- consider the budget estimates for the Victorian Auditor-General's Office;
- review the Auditor-General's draft annual plan and, if necessary, provide comments on the plan to the Auditor-General prior to its finalisation and tabling in Parliament;
- have a consultative role in determining the objectives and scope of performance audits by the Auditor-General and identifying any other particular issues that need to be addressed;
- have a consultative role in determining performance audit priorities; and
- exempt, if ever deemed necessary, the Auditor-General from legislative requirements applicable to government agencies on staff employment conditions and financial reporting practices.

CHAPTER 1: INTRODUCTION

1.1 Legislative requirements

Pursuant to section 19 of the *Audit Act 1994*, as amended, the Public Accounts and Estimates Committee is required to recommend to the Parliament the appointment of an independent person to conduct:

- a performance audit of the Victorian Auditor-General's Office at least once every three years.

The relevant section of the *Audit Act 1994*, as amended, is attached as Appendix 1.

1.2 Selection process

On 16 April 2007, the Committee appointed the following Members to a Sub-Committee to review the tender proposals:

Bob Stensholt, MP (Chair)

Kim Wells, MP (Deputy Chair)

Richard Dalla-Riva, MLC

Janice Munt, MP

On 27 April 2007, the Committee sought submissions by tender by advertising in *The Australian Financial Review* and, on 28 April 2007, in *The Age* and *The Australian* newspapers. The Committee also wrote to various major accounting and consulting firms, inviting tenders.

The Committee received five tenders for the performance audit.

Mr Peter Lochert, Director, Organisation Development and Finance, Department of Parliamentary Services and Mr Mark Roberts, Manager, Joint Committee Administration Office assisted the Chair with the analysis of the tenders received. This analysis was then evaluated by Members of the Sub-Committee.

CHAPTER 2: PERFORMANCE AUDIT

2.1 Background

The *Audit Act 1994*, as amended, requires that a performance audit of the Auditor-General be conducted at least once every three years. Under the Act, the Public Accounts and Estimates Committee is responsible for recommending the appointment of a suitably qualified person to undertake the performance audit.

Section 19 of the *Audit Act 1994* as amended, states in part that:

- (1) *An audit shall be conducted under this section at least once every 3 years to determine whether the Auditor-General and the Victorian Auditor-General's Office are achieving their objectives effectively and doing so economically and efficiently and in compliance with this Act.*
- (2) *An audit under this section shall be conducted by a suitably qualified person appointed by resolution of the Legislative Council and the Legislative Assembly, on the recommendation of the Parliamentary Committee.*¹

2.2 Selection criteria

In seeking to appoint a suitably qualified person, the Committee considered the following selection criteria. The person should:

- be a member of a leading Australian or international organisation in the fields of auditing and/or consulting (with an emphasis on performance evaluation);
- have an appreciation of the role of the Auditor-General's Office;
- have knowledge and experience in the application of large-scale performance reviews;
- have knowledge and experience in the use of modern performance audit methodologies and evaluation techniques;
- have a general knowledge and understanding of the nature of public sector organisations and the Victorian public sector's system of financial administration;
- have the ability to allocate sufficiently skilled and experienced staff to undertake the audit;
- not be involved during the course of the performance audit with an audit examination or consultancy in a department or agency in respect of which the Auditor-General has a statutory responsibility so as to avoid a possible conflict of interest with the performance audit functions; and
- not be the independent auditor that undertakes the financial audit of the Victorian Auditor-General's Office.

¹ In Section 3 of the *Audit Act 1994*, as amended 'Parliamentary Committee' is defined as the Public Accounts and Estimates Committee

2.3 Scope of the performance audit and recommended terms and conditions of the appointment

Section 19 of the *Audit Act 1994* as amended, states in part that:

- (3) *A person appointed under this section -*
- (a) *shall be appointed on such terms and conditions and is entitled to such remuneration as are determined by the Parliamentary Committee; and*
 - (b) *in conducting the audit, must comply with directions as to the audit given by that Committee.*
- (4) *The remuneration payable to a person appointed under this section shall be paid from money appropriated to the Parliament.*

Previous performance audits undertaken in 1992 and 1995 were wide-ranging and have retrospectively reviewed all aspects of the Auditor-General's operations over a three year period. The focus of the performance audit undertaken in 1998 was very limited in scope as the Victorian Auditor-General's Office was preparing to operate in a contestable audit services regime.

The focus of the performance audit in 2001 was also limited in scope because it was conducted in the environment of having a new Auditor-General seeking to establish his mandate in conjunction with the integration of Audit Victoria back into the Victorian Auditor-General's Office. The Committee used this performance audit to add value during this new phase of operations.

In the Committee's *Review of the report on the performance audit of the Victorian Auditor-General's Office* – March 2006, the Committee noted that:

Subsequent to the 2001 performance audit, the Auditor-General had been in office for more than six years and had reorganised the Office to meet its legislative responsibilities. Consequently, the Committee decided it was appropriate in 2004 to undertake a more comprehensive performance audit of the Auditor-General's Office to confirm whether its legislative responsibilities were being met.

In its overview, the Committee further noted:

The independent auditor's report raised some serious issues regarding the operations of the Victorian Auditor-General's Office. Major areas of concern raised by the performance auditor included: topic selection for performance audits, a lack of emphasis on risk when selecting performance audits, deficiencies in working papers and lack of quality control with financial audits, inattention to whole of government information technology systems, a high turnover of staff and a need to improve audit methodologies.

The Committee acknowledged that the nature of an audit report requires reporting by exception on adverse findings, without a requirement to emphasise the many positive aspects of operations that have or are occurring. Positive developments identified by the performance auditor in the Auditor-General's Office since the last performance audit in 2001 included:²

- introduction of a 'plain English' reporting style designed to improve the quality and clarity of audit reports;
- a strong commitment to strategic audit planning; and
- a commitment to continuous improvement initiatives across the Office, including the Performance Audit Business Improvement Project.

Audit staff were also seen as having a better understanding of the business operations of agencies, along with a general willingness amongst staff to improve relationships with agencies and 'add value' where possible.³

2.4 Directions

The Committee has directed the person to conduct the performance audit as follows:

The *Audit Act 1994* requires the triennial performance audit of the Victorian Auditor-General's Office to determine whether the Auditor-General is achieving his objectives effectively and doing so economically and efficiently and in compliance with the *Audit Act 1994*, as amended. In this context and without limiting the scope of the audit, the following matters should be addressed:

1. Assess the appropriateness of the purpose and objectives set by the Auditor-General in his annual plan and determine the extent to which they are being achieved.
2. Review key management issues, including:
 - (a) the adequacy and effectiveness of the annual planning process, having regard to risk factors and governance arrangements within agencies;
 - (b) the adequacy of VAGO's corporate and business plans in promoting internal effectiveness and efficiency, including future plans for the next three to five years;
 - (c) the adequacy and effectiveness of VAGO's audits in promoting improved performance and accountability as well as productivity in the Victorian public sector;
 - (d) the adequacy and effectiveness of internal systems to measure and improve productivity;

² Acumen Alliance, *Performance Audit of the Victorian Auditor-General and the Victorian Auditor-General's Office*, December 2004, p.4

³ *ibid.*

- (e) the adequacy of the existing time recording and costing systems to ensure all recoverable costs are collected for government and that there is no cross-subsidisation between chargeable and non-chargeable functions of the Office; or between performance and financial audits, and special reviews;
 - (f) the adequacy and appropriateness of all audit methodologies, practices and procedures;
 - (g) the culture of management and its effect on performance;
 - (h) the effectiveness of the relationship between the Office and its clients (particularly the Public Accounts and Estimates Committee and the Parliament) and any factors influencing that relationship;
 - (i) the extent to which best practice in public sector management and auditing has been adopted in the Office;
 - (j) the appropriateness of performance measures and benchmarks against which the Auditor-General's Office measures its performance both internally and externally;
 - (k) whether the Victorian Auditor-General's Office complies with Australian auditing standards, including the quality control process associated with contracted audits; and
 - (l) whether audits are supported by adequate plans and work papers, appropriate audit evidence and appropriate quality control procedures.
3. Review the efficiency and effectiveness of the management and conduct of performance audits and special reviews undertaken by the Victorian Auditor-General's Office, with particular attention to:
- (a) the extent to which the selection criteria for performance audits ensures key risk areas and major programs within the public sector receive adequate coverage;
 - (b) the adequacy of the rationale supporting the selection of potential performance audit topics;
 - (c) the effectiveness of the planning and management of performance audits;
 - (d) the adequacy of the investigative process and quality control procedures to support conclusions arising from the performance audits;
 - (e) whether significant issues that arise during the course of a performance audit that were not identified in audit plans, are addressed;
 - (f) whether the existing practice of tabling a considerable number of performance audit reports should be varied to include large performance audit projects addressing significant issues of public interest;
 - (g) compliance with statutory requirements for the conduct and reporting of performance audits;
 - (h) the appropriateness of the mix between specialist expertise, contractors and suitably qualified in-house staff in undertaking particular performance audits; and
 - (i) the appropriateness of criteria against which the efficiency and effectiveness of performance audits and special reviews conducted by the Office are measured.

4. Determine whether it is appropriate for the Auditor-General to extend his activities to actively assist public sector agencies in enhancing accountability and resource management through publication of good practice guides.
5. Survey a representative example of users of the Auditor-General's reports to the Parliament (Members of Parliament, Public Accounts and Estimates Committee, representatives of Executive Government and selected others) including key interest groups to determine whether the Auditor-General is meeting his objectives, particularly delivering value-added recommendations to agencies and providing value for money to the Parliament and the Victorian community.
6. Determine the adequacy of existing strategies within the Auditor-General's Office to recruit, train, adequately remunerate and retain suitably qualified and skilled staff to achieve its objectives.
7. Ascertain whether the existing processes for evaluating tenders from private audit contractors and consultancies are conducted with due regard to probity.
8. Determine the scope, quality and effectiveness of the internal audit function within the Auditor-General's Office.
9. Identify clear recommendations capable of implementation to effect improvement in the Auditor-General's Office where deemed possible/desirable.

The proposed terms of reference for the performance audit are similar to the 2004 performance audit. That report and the subsequent PAEC report of March 2006 included wide-ranging recommendations in many areas which would be appropriate for follow-up. (Copies are available from the Committee Secretariat, if required). The audit would also be an opportunity for the new Auditor-General's strategy for continuous improvements to the Office to be independently assessed.

The report of the performance audit should:

- specify the performance measures and benchmarks (both qualitative and quantitative) against which the Victorian Auditor-General's Office was measured and assessed;
- provide an opinion on the Victorian Auditor-General's Office's compliance with Australian auditing and accounting standards;
- detail conclusions and include clear recommendations capable of implementation to effect improvement where deemed possible/desirable; and
- provide an overall opinion as to whether the Victorian Auditor-General's Office is achieving its objectives effectively, economically and efficiently and in compliance with the *Audit Act 1994*, as amended.

2.5 Timing of the report

The person appointed shall complete the report and forward it to the Committee before the end of November 2007, or such later date as the Committee may direct. The Committee must within seven sitting days of receiving the report, transmit the report to the Legislative Assembly and the Legislative Council.

2.6 Level of remuneration

The Committee has determined that the remuneration for the performance audit will be \$199,500, exclusive of GST, plus a 2 per cent administration levy.

2.7 Recommended appointment

After reviewing all proposals received, the Committee resolved to recommend the appointment of Mr John Phillips of Acumen Alliance to conduct the performance audit of the Victorian Auditor-General's Office.

2.8 Recommendations

Accordingly, the Committee recommends that:

Recommendation 1: **In accordance with section 19 of the *Audit Act 1994*, as amended, the Legislative Council and the Legislative Assembly appoint Mr John Phillips of Acumen Alliance, in accordance with Appendix 2, to conduct the performance audit of the Victorian Auditor-General's Office.**

Recommendation 2: **The level of remuneration for the performance audit be \$199,500, exclusive of GST, plus a 2 per cent administration levy.**

This report was adopted by the Public Accounts and Estimates Committee at its meeting held on Monday, 18 June 2007 in Meeting Room 4, Parliament House, Melbourne.

APPENDIX 1: EXTRACT FROM THE *AUDIT ACT 1994*, AS AMENDED

19. *Performance audit of Auditor-General and Victorian Auditor-General's Office*

- (1) An audit shall be conducted under this section at least once every 3 years to determine whether the Auditor-General and the Victorian Auditor-General's Office are achieving their objectives effectively and doing so economically and efficiently and in compliance with this Act.
- (2) An audit under this section shall be conducted by a suitably qualified person appointed by resolution of the Legislative Council and the Legislative Assembly, on the recommendation of the Parliamentary Committee.⁴
- (2a) None of the following can be appointed to conduct an audit under this section –
 - (a) a person engaged by the Auditor-General under section 7F;
 - (b) a person who holds a delegation from the Auditor-General under section 7G;
 - (c) the independent auditor.
- (3) A person appointed under this section –
 - (a) shall be appointed on such terms and conditions and is entitled to such remuneration as are determined by the Parliamentary Committee; and
 - (b) in conducting the audit, must comply with directions as to the audit given by that Committee.
- (4) The remuneration payable to a person appointed under this section shall be paid from money appropriated to the Parliament.
- (5) Subject to any directions given by the Parliamentary Committee, sections 11, 12 and 14 apply in relation to a person appointed under this section as if references in those sections to the Auditor-General were references to the person appointed under this section.
- (6) A person appointed under this section must not make a report of an audit under this section unless –
 - (a) at least 20 business days before making the report, the person has given the Auditor-General a summary of findings and proposed recommendations in relation to the audit; and
 - (b) has, in writing, asked the Auditor-General for submissions or comment before a specified date, being at least 10 business days after the report is given to the Auditor-General.
- (7) The person must include in the report of an audit under this section any submissions or comment received, before the report is made, from the Auditor-General or a summary, in an agreed form, of any such submissions or comment.

⁴ In Section 3 of the *Audit Act 1994*, as amended 'Parliamentary Committee' is defined as the Public Accounts and Estimates Committee

- (8) The person, in a report of an audit under this section –
 - (a) may include such information as he or she thinks desirable in relation to matters that are the subject of the audit; and
 - (b) must set out the reasons for opinions expressed in the report; and
 - (c) may include any recommendations arising out of the audit as he or she thinks fit to make.
- (9) The person must cause a copy of the report to be transmitted to each House of Parliament within 7 sitting days of that House after making the report.

APPENDIX 2: TERMS AND CONDITIONS, AND REMUNERATION, OF A PERSON APPOINTED PURSUANT TO SECTION 19 OF THE *AUDIT ACT 1994*, AS AMENDED, AS RECOMMENDED BY THE PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Whereas

- A. An audit shall be conducted to determine whether the Auditor-General is achieving his objectives effectively and doing so economically and efficiently and in compliance with the *Audit Act 1994*, as amended.
- B. Mr John Phillips of Acumen Alliance is appointed by resolution of the Legislative Council and the Legislative Assembly, on the recommendation of the Public Accounts and Estimates Committee of the Parliament, to conduct the performance audit.

Definitions

- 1. In this document unless otherwise specified or unless the context otherwise requires:
 - 1.1 ‘Act’ means the *Audit Act 1994*, as amended.
 - 1.2 ‘Committee’ means the Public Accounts and Estimates Committee.
 - 1.3 ‘Liaison Officer’ means the Executive Officer of the Committee.
 - 1.4 ‘Person’ means Mr John Phillips.
 - 1.5 ‘Audit’ means a performance audit as described in section 19 of the *Audit Act 1994*, as amended.
 - 1.6 ‘Office’ means the Victorian Auditor-General’s Office.

Terms and conditions

- 2. The person is appointed on the following terms and conditions:

2.1 *Timetable for Reports*

The person shall deliver to the Chair of the Committee –

- a proposed audit plan by 27 July 2007; and
- a progress statement by 14 September 2007.

This statement shall exclude any findings or proposed recommendations in relation to the audit.

The person shall present and review the preliminary report with the Auditor-General and the Public Accounts and Estimates Committee as soon as practical upon completion.

The person appointed shall complete the report and forward it to the Committee before the end of November 2007, or such later date as the Committee may direct. The Committee must within seven sitting days of receiving the report, transmit the report to the Legislative Assembly and the Legislative Council.

The person shall be available to provide advice to the Committee on the report, after the report has been transmitted to the Legislative Assembly and the Legislative Council.

2.2 Liaison

The person shall liaise with the Liaison Officer as reasonably required by the Liaison Officer during the period of the audit. The Liaison Officer shall make themselves available as reasonably required by the person during the period of the audit.

2.3 Documents

All documents (other than working papers) prepared pursuant to the audit and all documents supplied to the person for the purpose of the audit (excluding those documents returned to the originating source) shall be and remain the property of the Victorian Parliament and shall be delivered by the person to the Committee on the completion of the audit.

All working papers are to be made available to future persons appointed under the *Audit Act 1994*, as amended.

The documents supplied to the person pursuant to the audit shall not without the prior approval of the Committee be used, copied or reproduced for any purpose other than for the execution of the work contained in the audit.

2.4 Disclosure of information

The person shall not without the prior written approval of the Committee disclose to any person any material obtained or produced during the course of the audit.

2.5 Compliance with Acts

The person shall ensure that in carrying out the audit he shall comply with the requirements of the provisions of all Acts of Parliament of the Commonwealth and with the requirements of the provisions of all Acts of the Parliament of Victoria and with the requirements of all ordinances, regulations, by-laws, orders and proclamations made or issued under any such Acts or Ordinances and with the lawful requirements of public and other authorities in any way affecting or applicable to the audit.

2.6 Conflict of Interest

The person warrants that, at the date of this document, no conflict of interest exists or is likely to arise in the performance of their obligations under the audit. The person also provides a clear undertaking that any change of ownership of Acumen Alliance will not affect their ability to undertake the project. If, during the term of the audit, a conflict or risk of conflict of interest arises, the person undertakes to notify the Committee immediately in writing of that conflict or risk.

2.7 Resourcing

The person warrants that he will personally perform no less than 120 hours on the audit. The person will be assisted by Mr Alan Fotheringham, Mr Kelly Mark, Ms Monica Tan, Mr Craig Geddes and other such support staff as required, to a total of 950 hours. The Committee may direct changes to the team assisting the person, or the extent of involvement of team members in the audit.

2.8 Application of Act

Pursuant to section 19 of the Act, sections 11, 12 and 14 of the Act apply to the person as if references in those sections to the Auditor-General were references to the person.

2.9 Copyright

Copyright of all documents developed or produced by the person pursuant to the audit shall vest in the Crown in right of the State of Victoria.

2.10 Independent Contractor

The person is an independent contractor and the personnel employed or engaged by him shall not by virtue of this document become or be deemed to have become employed by or in the service of the state for the purpose of the Income Tax or Income Tax Assessment Acts and the Accident Compensation Act or for any other purpose.

2.11 Release and Indemnity

The person releases and shall indemnify the state, its officers and employees from and against liability for or in respect of any physical injury to persons (including death) or damage to property in so far as the injury or damage is attributable to any negligent or unlawful action of the person in the course of carrying out the audit.

2.12 Force Majeure

If either the Committee or the person is rendered unable to carry out the whole or any part of this audit by any reason beyond its control including, but not limited to, acts of God, acts of governments or governmental authorities, strikes or riots and any other causes of like nature, then the performance of such obligations as are effected by such cause, shall be excused during the continuance or any inability so caused. Save that this part shall not excuse the state from its obligations to pay fees to the person as they become due.

2.13 Severability

If any provision of this document is held invalid, unenforceable, or illegal for any reason, this document remains otherwise in full force, apart from such provision which is deemed deleted.

2.14 Termination

By resolution of the Legislative Council and the Legislative Assembly, on the recommendation of the Committee, the Legislative Council and Legislative Assembly at any time giving written notice to the person of its intention so to do may abrogate or constrict this audit or any part of or further part thereof and upon such notice being given the person shall cease or reduce work according to the notice and shall forthwith do everything possible to mitigate the losses consequent thereto.

In that event the person may submit a claim for compensation for such sums as are fair and reasonable in respect of the loss or damage sustained by the person in unavoidable circumstances provided always the person shall not be entitled for the loss of prospective profits.

Remuneration

3. The amount to be paid to the person for all work done in undertaking the audit shall be \$199,500, exclusive of GST, plus a 2 per cent administration levy, which shall be paid in the following manner:
 - 3.1 30 per cent on submission of the audit plan;
 - 3.2 30 per cent on delivery of a satisfactory progress statement to the Chair of the Committee;
 - 3.3 30 per cent on submission of a draft report to the Auditor-General and to the Committee by 26 October 2007; and
 - 3.4 10 per cent on transmission of the person's report to the Legislative Assembly and the Legislative Council.

The person warrants to meet all expenses incurred during the audit without any further recourse to the Parliament of Victoria.

APPENDIX 3: ORGANISATIONS SUBMITTING PROPOSALS FOR PERFORMANCE AUDIT

Acumen Alliance

International Accounting and Auditing Institute

Masters Le Mesurier

PKF Chartered Accountants

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