



Auditor-General for Australia



6 April 2017

Ms Sophie Dunstone
Committee Secretary
Senate Select Committee on a National Integrity Commission
Parliament House
CANBERRA ACT 2600

Dear Ms Dunstone

**Senate Select Committee Inquiry — Establishment of a National Integrity Commission —
ANAO submission**

Thank you for your letter of 15 February 2017 inviting a submission to the inquiry of the Senate Select Committee on a National Integrity Commission. Please find below the Australian National Audit Office's (ANAO) submission.

Role of the Auditor-General

The office of Auditor-General was the first statutory integrity entity established by the Commonwealth Parliament, following passage of the *Audit Act 1901*. That Act was the fourth passed by the new Commonwealth Parliament.

The Auditor-General is an independent officer of the Parliament whose responsibilities, as set out in the current *Auditor-General Act 1997* (the Act), include:

- auditing the financial statements of Commonwealth entities, Commonwealth companies and their subsidiaries;
- auditing annual performance statements of Commonwealth entities in accordance with the *Public Governance, Performance and Accountability Act 2013* (PGPA Act);
- conducting performance audits, assurance reviews, or audits of the performance measures, of Commonwealth entities and Commonwealth companies and their subsidiaries;
- conducting performance audits of Commonwealth partners as described in section 18B of the Act;
- providing other audit services as required by other legislation or allowed under section 20 of the Act; and

- reporting directly to the Parliament on any matter or to a minister on any important matter.

Section 8 of the Act provides that as an independent officer of the Parliament, the Auditor-General has complete discretion in the performance or exercise of his or her functions or powers. In particular, the Auditor-General is not subject to direction from anyone in relation to: whether or not a particular audit is to be conducted; the way in which a particular audit is to be conducted; or the priority to be given to any particular matter. In the exercise of these functions or powers, the Auditor-General must, however, have regard to the audit priorities of the Parliament, as determined by the Joint Committee of Public Accounts and Audit (JCPAA).

The JCPAA is the ANAO's oversight committee, with statutory responsibilities under the *Public Accounts and Audit Committee Act 1951* to examine all reports of the Auditor-General, consider the operations and resources of the ANAO, and otherwise report to the Parliament on any matter relating to the Auditor-General's functions and powers. Any proposed changes to the Commonwealth's integrity arrangements with implications for the *Auditor-General Act 1997* or office of the Auditor-General would be of interest to the Committee.

The ANAO also appears before Senate Estimates committees, contributes to the work of other Parliamentary inquiries, and is available to brief Senators and Members of Parliament at their request.

The Act constrains the Auditor-General's independence in conducting:

- a performance audit or an audit of performance measures of a government business enterprise unless it is requested by the JCPAA;
- a performance audit of a Commonwealth partner that is part of, or controlled by, a state or territory government unless it is requested by the responsible minister or the JCPAA; or
- an audit of the annual performance statements of Commonwealth entities unless requested by either the Minister for Finance or the responsible minister (this means that the Parliament does not receive assurance, as a matter of course, on performance statements included in annual reports as it does over financial statements where an independent audit report is mandatory).

In delivering against this mandate, the Auditor-General is assisted by the ANAO. Its purpose is outlined in its Corporate Plan 2016–20:

The purpose of the ANAO is to drive accountability and transparency in the Australian Government sector through quality evidence based audit services and independent reporting to Parliament, the Executive and the public, with the result of improving public sector performance.

The ANAO's work is governed by the Act and the auditing standards established by the Auditor-General. These currently incorporate the standards made by the Auditing and

Assurance Standards Board as applied by the auditing profession in Australia. In accordance with these standards, performance audits and financial statements audits are designed to provide a reasonable level of assurance.

Section 33 of the Act provides the Auditor-General or an authorised (ANAO) official with full and free access at all reasonable times to documents or other property, and authority to examine, make copies of or take extracts from documents.

In addition, section 32 of the Act provides that the Auditor-General may, by written notice, direct a person to provide information, attend and give evidence, and produce documents in their custody or under their control. The Auditor-General may also direct that information or answers to questions be verified or given on oath or affirmation. A person must comply with such a direction and self-incrimination does not provide an excuse from producing a document or answering a question under section 32.

Financial statements audits

The preparation of annual audited financial statements is a key element of the financial management and accountability regime in the Australian Government sector. Financial statements audits provide an independent examination of the financial accounting and reporting of public sector entities. In undertaking these audits, the ANAO also considers each entity's governance structures and related supporting processes in areas such as audit committees, internal audit and fraud control planning. The ANAO conducts some 250 financial statement audits annually, and the results inform planning for the future program and potential performance audit coverage.

The Auditor-General, or the Auditor-General's delegate, provides an independent auditor's report on the financial statements to the responsible minister. The Auditor-General also presents two reports to the Parliament each year that summarise the results of the financial statements audits of public sector entities and report any moderate or high risk audit findings

The first report—Interim Phase of the Audits of Financial Statements of Major General Government Sector Entities—is generally tabled in June each year. This report typically comprises the portfolio departments and other entities that account for at least 95 per cent of the revenues and expenses of the General Government Sector. The report summarises the interim phase of the audits of these entities, encompassing a review of the governance arrangements related to entities' financial reporting responsibilities, and an examination of relevant internal controls, including information technology system controls.

The second report—Audits of the Financial Statements of Australian Government Entities—is tabled in December each year. This report contains the results of all financial statements audits completed across the Australian Government sector, including the Australian Government's Consolidated Financial Statements, together with a description and the implications of each moderate and high risk audit finding.

Performance audits

A performance audit is a review or examination of the operations of an Australian Government sector entity to provide the Parliament with assurance relating to the administration of entities and programs, including where they involve a Commonwealth partner. A performance audit also assists public sector managers by identifying issues and promoting better administrative and management practices. Performance audits include an examination of one or more of:

- economy (minimising cost);
- efficiency (maximising the ratio of outputs to inputs);
- effectiveness (the extent to which intended outcomes are achieved);
- legislative and policy compliance; and
- ethics.

The ANAO undertakes approximately 50 performance audits each year, across all portfolios. The program comprises a mix of entity-specific audits, broader cross-entity audits, and whole-of-system audits. The Act provides that a Commonwealth entity does not include any persons who are employed or engaged under the *Members of Parliament (Staff) Act 1984*.

Other Assurance Activities

Other assurance activities generally consist of audits or reviews undertaken by arrangement with the audited entity—and can also be undertaken in response to requests from stakeholders, including parliamentarians, parliamentary committees, community groups and members of the public. Once inquiries by the ANAO have been concluded, the findings from these individual assurance activities may be handled through the issue of a formal report or by correspondence. The Auditor-General can also present a report for tabling in the Parliament on any matter.

A significant assurance activity undertaken each year is the priority assurance review of major Defence equipment acquisition projects, including the production of the Major Projects Report. Increased transparency and accountability in relation to the progress of Defence major projects has been an ongoing focus of the Parliament—and in response to this focus, an annual program was established by the ANAO in 2007–08 to review and report to the Parliament on the status of Defence major projects. The Major Projects Report includes information relating to the cost, schedule and capability delivery performance of individual projects as at 30 June each year. The 2016–17 Major Projects Report covered 26 projects.

Corruption and misconduct

Evidence of possible misconduct and/or corruption will sometimes emerge in the course of the ANAO's audit and assurance work. In the first instance, the ANAO will generally bring this evidence to the attention of the responsible investigating authority within the affected entity. This was done, for example, in the course of performance audits on:

- Defence credit cards—see paragraphs 3.17 and 4.33 of ANAO Report No.33 2015-16 *Defence's Management of Credit and other Transaction Cards*; and
- Defence disposals—see ANAO Report No.19 2014-15 *Management of the Disposal of Specialist Military Equipment*. In the context of that audit, the ANAO drew information to the attention of the then Inspector-General Defence and also sought information from the Inspector-General on the outcome of a number of internal reviews.

The ANAO examines the internal audit reports of entities and other reviews in the course of its audit and assurance work, to inform itself of risks faced by entities and the remediation of those risks.

Information and findings presented in audit reports have also prompted internal investigations by entities. For example, this occurred in the course of the credit cards audit mentioned above, and in the context of ANAO Report No.16 2016-17 *Offshore Processing Centres in Nauru and Papua New Guinea: Procurement of Garrison Support and Welfare Services* (page 96 of that audit reproduces correspondence from the department about the internal review).

Section 36 of the Act provides that the Auditor-General may disclose particular information to the Commissioner of the Australian Federal Police (AFP) if the Auditor-General is of the opinion that the disclosure is in the public interest.

Experience in other jurisdictions

In considering the potential interaction between any new national integrity body and the office of Auditor-General, there would be benefit in the Committee considering a number of the issues arising in the Victorian Parliament's 2016 review of Victoria's anti-corruption arrangements.

In his submission to the inquiry, the Acting Victorian Auditor-General highlighted a number of adverse operational impacts resulting from the requirement that the Victorian Auditor-General's Office (VAGO) notify the Independent Broad-based Anti-corruption Commission (IBAC) of matters that appear to involve corrupt conduct. Principal among these impacts was a concern that it eroded the Victorian Auditor-General's independence, as mandatory notification requirements dilute the long-established statutory position that the office of Auditor-General is not subject to direction. The Acting Victorian Auditor-General proposed that such notifications be at the discretion of the Auditor-General in order to preserve the independence of the role.

As noted above, the *Auditor-General Act 1997* provides the Commonwealth Auditor-General with discretionary authority of this sort. For example, section 36 provides a discretion to disclose matters to the AFP Commissioner, while section 37 provides a discretion not to include sensitive information in public reports in the public interest, including where judicial proceedings are involved. Under section 37, the Commonwealth Auditor-General cannot be required to disclose information that has not been included in a public report in the public

interest. This arrangement is consistent with the general statutory position that the Auditor-General is independent and cannot be directed.

In its submission, VAGO also highlighted a number of issues relating to the interaction of its legislation and that of IBAC and the Victorian Inspectorate, including: oversight of certain of its functions by the Victorian Inspectorate; and provisions that preclude VAGO from including in a report any information that would prejudice an investigation by the Victorian Inspectorate or IBAC. The Acting Victorian Auditor-General advised the Victorian Parliament that these provisions have further eroded the Auditor-General's independence.

The *Auditor-General Act 1997* already makes provision for the Attorney-General to issue a certificate to the Commonwealth Auditor-General in cases where the Attorney-General is of the opinion that disclosure of information in a public report would be contrary to the public interest. Those reasons are set out in section 37 of the Act, which also provides that if the Auditor-General omits particular information from a public report because the Attorney-General issued a certificate, the Auditor-General must state in the public report that information has been omitted and the reason(s) why the Attorney-General issued the certificate. The Auditor-General may also prepare a report that includes the information concerned and give it to the Prime Minister, Finance Minister and any responsible Minister.

Audit arrangements for Commonwealth integrity bodies

Existing Commonwealth integrity bodies are subject to review by the Auditor-General, including annual audits of their financial statements and periodic performance audits.

We are available to provide further assistance to the Committee in relation to its inquiry. The ANAO contact officer for this matter is Dr Tom Ioannou, Group Executive Director, Performance Audit Services Group

Yours sincerely

Grant Hehir
Auditor-General