



17 December 2009

Ms Sharon Grierson MP
Chair
Joint Committee of Public Accounts and Audit
Parliament House
CANBERRA ACT 2600

**Supplementary
Submission No. 3-5**

Dear Ms Grierson

Inquiry into the Auditor-General Act 1997

At the Committee's hearing on 19 October 2009, the Committee sought further information in respect of the following matters:

- advice of any instances where audit reports did not include responses received from recipients of a proposed report or an extract of a proposed report since the *Auditor-General Act 1997* was amended with effect from 25 February 2009;
- the internal guidelines relating to the publication of responses;
- the amount of audit fees charged for audits on Commonwealth Authorities and Companies Act bodies; and
- whether auditing arrangements were included in discussions at meetings of the Council of Australian Governments.

The ANAO's response to these matters is set out in the Attachment to this letter.

Yours sincerely

Ian McPhee

Joint Committee of Public Accounts and Audit

Inquiry into the Auditor-General Act 1997

The Australian National Audit Office's response to the Committee's request for further information on a number of matters is set out below.

Inclusion of responses in audit reports

A review of all performance audits tabled between 25 February 2009 and 21 November 2009 (36 in total) found that responses received from the recipients of a full proposed report or an extract of a proposed report were included in each audit report as required by section 19(5) of the Act, with the following caveats.

Audit Report No 23 2008-09 Collins Class Operational Sustainment

This report was tabled on 25 February 2009. As such, the audit was undertaken and the audit report was completed prior to the amendments to the Act taking effect. In accordance with established practices at that time, formal comments received from the Department of Defence were included in full in the final audit report. Extracts of the proposed report were provided to three parties to meet our procedural fairness responsibilities. Comments received from these parties were taken into consideration in finalising the audit report.

Audit Report No 24 2008-09 Administration of Contracting Arrangements in Relation to Government Advertising

The final audit report was approved by the Auditor-General on 20 February 2009, and the report was tabled on 5 March 2009. The audit was undertaken and the report was also prepared in accordance with established practices at the time. The five agencies involved in the audit were provided a copy of the proposed report on 18 November 2008. The responses from each agency were included in full in the final report.

To meet our procedural fairness responsibilities, a copy of the proposed report was also provided to all past and then present members of the Ministerial Committee on Government Communications on 21 November 2008. Extracts of the report were also provided to 16 parties in late November 2008. Formal comments were received from Mr Nairn and the comments by Mr Nairn included in the final report were agreed with him in mid-February 2009.

Written comments were received from four parties that received extracts of the report prior to the deadline of 16 December 2008, and these were taken into account in finalising the audit report.

Audit Report No 1 2009-10 Representations to the Department of the Treasury in relation to motor dealer financing assistance

This report was tabled on 4 August 2009. Appendix 1 of the report includes in full comments received from recipients of the proposed report or an extract of the proposed report. Formal comments were provided by the Treasury, Credit Suisse and Mr Godwin Grech. As noted in the report in Footnote 82 on page 79, apart from two representations explicitly identified by the Treasurer or the Prime Minister in their statements in the Parliament, given commercial and other relevant considerations, the ANAO did not specifically identify the other individual dealers who made representations for assistance. Some formal comments on the proposed report identified a third dealer by name, and the ANAO edited these comments so as to not identify the dealer concerned, without otherwise affecting the comments provided on the proposed report.

Internal guidelines relating to the inclusion of comments in audit reports

Copies of the relevant extract of our Performance Audit Manual, and a proforma letter that accompanies proposed audit reports issued under s19 of the Act are attached.

Audit fees for CAC Act bodies

In 2008-09, the ANAO received a total of \$8.141 million in audit fees from CAC Act bodies (\$7.992 million in 2007-08).

COAG discussions of auditing arrangements

The ANAO is not aware that discussions by the Council of Australian Governments (COAG) have included discussions about external auditing arrangements at the Commonwealth and/or State and Territory Government levels.

Through our current audits of the Building the Education Revolution, and the Digital Education Revolution, we are aware that provisions that provide for access by the Auditor-General (amongst others) to premises and records are included in the bilateral agreements on the National Building and Jobs Plan and the funding agreements between the Commonwealth and various parties on this Plan. We are also aware that the bilateral agreements on the Digital Education Revolution between the Commonwealth and the various States and Territories include a provision relating to an annual audit by the respective State Auditors-General. The funding agreements with various parties also include access provisions similar to the provision included in the funding agreements for the National Building and Jobs Plan.

More generally, we understand that not all bilateral agreements and funding agreements necessarily include access clauses, as their inclusion is determined on a case by case basis.

6. Reporting and Tabling

6.1 The audit report is tabled in the Parliament, and is available to the public. In complying with relevant professional standards, it is important that the report is based on sound evidence and analysis and clearly presents conclusions and practical recommendations that are able to be implemented cost effectively.

6.2 The audit report must convey a worldly understanding of the issues relevant to the audit objectives, be objective and balanced in the presentation of the audit conclusion and findings and be constructive in the presentation of improvement opportunities. The overall conclusion in the report should address the audit objectives.

6.3 The conduct of a performance audit will generally involve the preparation of issue papers or management reports, together with a proposed report (the section 19 report) and a final report.

6.4 All issues papers, management reports and audit reports shall be prepared in accordance with the approved PASG style and format and in accordance with the ANAO Auditing Standards.

6.5 The audit team's review and assessment of the findings and conclusions, drawn from the audit evidence, will form the basis of issues papers, draft and final reports. The audit manager needs to determine whether sufficient appropriate evidence has been obtained to support the conclusions expressed in the audit report (ASAE 3500.79 to .82)

6.6 Audit reports must not include particular information, that is, sensitive information, if its disclosure would be contrary to the public interest. (s.37 of the Act)

Issues papers and draft management reports

6.7 Issues papers and draft management reports¹ shall be written and provided to the entity(s) following approval by the responsible Group Executive Director or Executive Director. Issues papers and draft management reports for all high risk audits are to approved by the responsible Group Executive Director.

6.8 Consultation with the entity(s) and any relevant third parties is important to developing fair and balanced conclusions and recommendations. Any information provided and the feedback on the issues papers or draft management reports from entities or other parties should be taken into account when preparing the proposed report.

Proposed report

6.9 All proposed (and final) audit reports shall contain a Report Summary and the main body of the report. The Report Summary shall consist of: background to and context of the audit; the audit objective, scope and approach; the high level audit criteria; overall conclusions and key findings (by chapter), and recommendations. Further details of the content of the report are in Part 2 of this manual. (PASG, ASAE 3500.83 to .93)

¹ Draft management reports are prepared in certain cross-agency audits where it is proposed that the audit report presents findings in generic terms.

6.10 The proposed report provides the opportunity for the entity(s) subject to audit to provide comments that must be taken into consideration in finalising the report. The proposed report should contain the relevant facts and findings sufficient to allow readers to understand how the audit conclusion was formed and to support the report's recommendations.

6.11 The proposed reports for high risk audits that shall be subject to a peer review will be determined by the Group Executive Directors, in consultation with the Executive.

6.12 A proposed report of an audit performed under s.15 of the Act must be provided to the Chief Executive of the entity subject to audit and any person who the Auditor-General considers has a special interest in the report. A proposed report, or relevant extracts of the proposed report, of an audit performed under s.18 of the Act may be given to any person who the Auditor-General considers has a special interest in the report.

6.13 The proposed report, or extracts of the proposed report, may also be provided to a relevant third party if they are mentioned in the report but would not necessarily receive a copy of the proposed report as a matter of course. The Auditor-General provides a copy of the proposed report or relevant extracts from it in order to meet the Auditor-General's obligations in relation to procedural fairness. The Auditor-General may provide the proposed report or an extract to any person who, or body that, in the Auditor-General's opinion, has a special interest in the report.

6.14 Procedural fairness refers to a set of rights that people derive under common law. Where a proposed report might adversely affect the reputation of a person or organisation (that is named or could be identified from the report), the prudent course of action to meet procedural fairness obligations is to provide that person or organisation with a copy of the proposed report or the relevant extract for comment. Extracts from proposed reports should include sufficient material to allow the person or organisation receiving it to understand and comment on the fairness of the facts and the context in which they are presented.

6.15 Written comments provided by the entity(s), or other persons with a special interest, on the proposed report within 28 days must be considered before preparing a final report (s.19(4) of the Act). All written comments received under s.19(4) of the Act must be included in the final report (**s.19) of the Act**)

6.16 Written comments received from recipients of extracts of a report within 28 days must also be taken into account in finalising the report (s.19(4) of the Act). All written comments received under s.19(4) of the Act must be included in the final report (s. 19(5)). It is important to note that extracts attract the same protection regarding confidentiality and the associated penalties as a full s.19 issued to entities (s.36(3)).

Final report, brochure and summaries

6.17 The structure of the final report should be substantially the same as the proposed report. The final audit report should also state that the audit was carried out in compliance with the ANAO Auditing Standards, and include the full cost of the audit. Formal comments provided by the entity on the proposed audit report must be fully considered in finalising the final report and the report amended where appropriate. In other words, the entity's comments should be viewed as relevant information in finalising the report and in some cases may lead to some changes in the report. The full text of the entity's comments shall be included in full as an appendix to the final report. Where relevant, entity comments shall also be included in the body of the report. The entity's response to each audit recommendation, in the form of 'Agreed', 'Agreed with qualifications' or 'Not agreed', shall also be included in the Report Summary.

6.18 In preparing the report for publication, a copy of the final draft of the report is made available to relevant stakeholders. Relevant stakeholders include: the responsible Minister(s), the Prime Minister, together with a second copy marked to the attention of the Secretary of the Department of the Prime Minister and Cabinet (to be delivered direct to the Secretary's office), the Parliamentary Secretary where they have direct responsibility for the matters subject to audit, and the responsible entity(s) Chief Executive.

6.19 Third parties that have received an extract of the proposed report do not, as a matter of course, receive a copy of the final draft of the report. If a third party requests an extract of the final report the decision should be referred to the Group Executive Director for consideration.

6.20 A brochure in pamphlet form shall be tabled with each performance audit report. The contents of the brochure shall be consistent with the audit report summary.

6.21 Summaries for the ANAO Annual Report to the Parliament and the JCPAA shall be prepared, in accordance with the approved format, at the time the final report is submitted to the Executive for approval. The JCPAA summaries are provided to the Committee at the time the Committee is determining its schedule of inquiries.

Approval of audit reports

6.22 All audit reports, including proposed and final reports, are approved for tabling in the Parliament by the Auditor-General following review by the responsible Group Executive Director and the Deputy Auditor-General. All final reports are signed by the Auditor-General.

Tabling of audit reports

6.23 The final audit report must be transmitted to the Presiding Officers to enable tabling in the Parliament as soon as practicable after the completion of each audit. **(s.15, s.16, s.17 and s.18 of the Act)** A copy of the final report must be given to the responsible Minister(s), the entity's(s) Chief Executive (or in the case of authorities, to an officer of the authority and for companies, a Director or Senior Manager of the company) and when conducting cross-agency audits, the Finance Minister and any party that has a special interest in the matter. **(s.15, s.16, s.17 and s.18 of the Act)**

Proforma letter to accompany S19 proposed report

File Reference:

[Date]

[name and address of Secretary/Chief Executive]

Dear []

[Name of audit]

The Australian National Audit Office (ANAO) has now prepared the attached proposed audit report on [name of audit]. The proposed report is provided to you pursuant to sub-section 19(1) of the *Auditor-General Act 1997* (the Act). Sub-section 19(4) of the Act provides that, if the recipient of the proposed report gives written comments to the Auditor-General within 28 days after receiving the proposed report, the Auditor-General must consider those comments before preparing the final report. Sub-section 19(5) of the Act now requires the Auditor-General to include in the final audit report all comments received. As you would be aware this reflects our existing practice.

To assist in finalising the audit report, I ask that the [departments/agency's] comments be provided in three parts, as follows:

1. formal agency comments on the proposed report including, in respect to each of the audit's recommendations, whether the [department/agency] agrees, agrees with qualification or does not agree. These comments will be included in full as an appendix to the final report;
2. a short (one to two paragraph) summary of the [departments/agencies] comments to be included in the report summary and brochure; and
3. any additional detailed commentary, including of an editorial nature, that can be reflected as appropriate in the body of the report.

Agency comments on the proposed report

It is requested that your comments on the proposed report be directly relevant to the audit findings and recommendations and be reasonably succinct. This will aid readers, in particular, the Parliament. The aim is to produce an informative and readable document. To achieve this, any additional commentary, including of an editorial nature, can be provided separately to the agency's formal comments on the proposed report.

Following consideration of any comments received, we may make amendments to the report. We will advise you of any substantive amendments made and discuss with you whether it may be appropriate for you to update your original comments. We will ensure that the

[departments/agency's] formal comments to be included in the final report are agreed with you.

Section 19 of the Act provides a timeframe of 28 days for the provision of written comments. Therefore, the final date for providing written comments is [date]. We expect to table the final report in Parliament during [month].

Confidentiality obligations

It is also relevant that I advise you that sub-section 36(3) of the Act provides that a person who receives a proposed report under sub-section 19(1) must not disclose any of the information in the report to any persons except with the consent of the Auditor-General. In this context, the Auditor-General authorises that copies of this report may be distributed to relevant officials of your [department/agency] in order to assist in preparing any comments you may wish to make.

I ask that when you provide the report to those persons, you advise each of them of their confidentiality obligations under sub-section 36(3) of the Act, as well as the consequences of any breaches of this obligation. Distribution of the report to any other person requires the approval of the Auditor-General.

We are available for further discussions on this proposed report as required. Please contact me on [telephone number] or alternatively your staff may wish to contact the Executive Director in charge of this audit, [name of executive director], on [telephone number and email address] or the Audit Manager, [name of Audit Manager] on [telephone number and email address].

A final draft copy of the report, incorporating any changes and your formal comments, will be forwarded to you for your information. We would be happy to brief you on the final report if you wish, prior to its tabling.

Yours sincerely

[Signature block of Group Executive Director]