

Other issues

Introduction

- 5.1 The first part of this chapter focuses on the ANAO's performance audit activities and the actions of Ministers. The performance audit aspects of the Act do not extend to auditing the performance of Ministers, and the Auditor-General is not seeking to change this aspect of the Act.
- 5.2 The Auditor-General, however, is seeking clarification on the responsibilities of Ministers in regard to their involvement in the administration of government programs. That is, where an audit is being conducted on an agency program, it may be necessary to interview a Minister if they have had close involvement in a program's administration. This matter, together with the circulation of reports to Ministers, is examined in this chapter.
- 5.3 The Department of Family and Community Services (FaCS) raised the possibility of potential problems when the ANAO conducts performance audits of its provider agencies. FaCS, for example, purchases services from Centrelink. FaCS suggests that if an audit is conducted on Centrelink then it should be provided with proposed audit reports and other communication. This matter is examined in this chapter.
- 5.4 The final part of this chapter notes the role of the Independent Auditor, and the provision of performance indicators relating to the output of the ANAO. This section examines how the performance of the ANAO is assessed, and whether the ANAO receives sufficient performance information to assist with continuous improvement.

Section 15 – overview

5.5 Section 15 sets out the Auditor-General’s powers and responsibilities in relation to performance audits of agencies. The Auditor-General has wide powers to conduct a performance audit of an agency at any time. In addition, the Auditor-General is required to table the report in Parliament and give a copy to the responsible Minister. Section 15 is divided into three sub-sections which are shown, in full, below:

Division 2—Performance audits

15 Agencies

- (1) *The Auditor-General may at any time conduct a performance audit of an agency.*
- (2) *As soon as practicable after completing the report on the audit, the Auditor-General must:*
 - (a) *cause a copy to be table in each House of the Parliament; and*
 - (b) *give a copy to the responsible Minister.*
- (3) *For the purposes of this section, an Agency is taken not to include any persons who are employed or engaged under the Members of Parliament (Staff) Act 1984 and who are allocated to the Agency by regulations for the purposes of the definition of Agency in section 5 of the Financial Management and Accountability Act 1997.*

Distribution of audit reports to Ministers – section 15

5.6 The Auditor-General indicated that the requirement in section 15 to provide a copy of an audit report to the responsible Minister is restrictive in that other Ministers with a special interest in the report cannot be sent a copy. The Auditor-General proposed that section 15 be amended ‘to allow the distribution of single agency reports to any Minister with a special interest in the report’.¹

5.7 In support of this amendment, the ANAO indicated that section 15 could be amended to reflect the provisions that operate in sections 18 and 19. Section 18 provides for the conduct of performance audits of the whole or part of the Commonwealth public sector. Section 18(3) states that in addition to the Finance Minister the ‘Auditor-General may give a copy of

1 Mr Pat Barrett, Australian National Audit Office, *Transcript*, p. 20.

the report to any other Minister who, in the Auditor-General's opinion, has a special interest in the report.'

Conclusions

- 5.8 The Committee supports the proposal to amend section 15 to allow the Auditor-General to distribute single agency reports to any Minister with a special interest in the report. This measure gives additional flexibility to the Auditor-General and provides a beneficial outcome for executive government.

Recommendation 5

- 5.9 The Committee recommends that the Government amend section 15(2) of the *Auditor-General Act 1997*, to read:

- **As soon as practicable after completing the report on the audit, the Auditor-General must:**
 - ⇒ (a) **cause a copy to be tabled in each House of Parliament; and**
 - ⇒ (b) **give a copy to the responsible Minister; and**
 - ⇒ (c) **to any other Minister who, in the Auditor-General's opinion, has a special interest in the report.**

The actions of Ministers – section 15

- 5.10 The ANAO raised the issue of the responsibility of Ministers in relation to audits on agency programs. The ANAO is not entitled to audit the performance of Ministers. However, Ministers do involve themselves in the administration of government programs and, consequently, it may be necessary to interview them in relation to an audit of a government program. The ANAO sought clarification on this matter:

The ANAO considers that the Auditor-General's mandate, in the context of Ministers' involvement in the administration of Commonwealth programs or bodies, may warrant further consideration and clarification.²

- 5.11 Section 15 sets out the framework for the conduct of performance audits on agencies. Section 15(3) defines what is not an 'agency' and therefore

2 Australian National Audit Office, *Submission No. 6*, p. 9.

cannot be subject to audit. This sections states that 'an Agency is taken not to include any persons who are employed or engaged under the *Members of Parliament (Staff) Act 1984*'. The Act does not specifically state that a Minister is exempt from performance audit, although this is stated in the Explanatory Memorandum (EM) to the Auditor-General Bill 1996.

- 5.12 The EM refers to the *Audit Act 1901* which exempted certain statutory officers from being the subject of a performance audit. These include Ministers of State of the Commonwealth, judicial and quasi-judicial officers and Royal Commissioners. The EM states that the provisions of the Bill are clear in setting out what the Auditor-General can audit and report on. Consequently, by not stating or referring to Ministers, the Auditor-General is not entitled to conduct audits of Ministers. However, the EM states:

...many statutory office holders have administrative responsibilities in addition to their statutory responsibilities. The Bill provides that the administrative functions of statutory office holders may be subject to a performance audit.³

- 5.13 Similarly, the ANAO commented that 'an audit which the Auditor-General is empowered to conduct can properly extend to interviewing such person or body where to do so is necessary for the conduct of, and is reasonably incidental to, the audit.'⁴

- 5.14 The ANAO suggested that in practice, 'relevant Ministers have responded positively to requests for information in relation to their involvement in the administration of government programs or of an agency, authority or Commonwealth company'.⁵ The ANAO stated:

We have been fortunate to date that Ministers have readily agreed to cooperate. All we are saying is that we have got by to date with that, and that is a good thing, but if ever there were a situation where Ministers declined to be of assistance, that would become an issue for us and we would just have to report in the report that we were not able to progress this any further. The question was: does the parliament wish to clarify what is the expectation in terms of the Auditor-General's mandate and the relationship with Ministers?⁶

3 Explanatory Memorandum to the Auditor-General Bill 1996, paragraph 27.

4 Australian National Audit Office, *Submission No. 6*, p. 9.

5 Australian National Audit Office, *Submission No. 6*, p. 10.

6 Mr Ian McPhee, Australian National Audit Office, *Transcript*, pp. 31-32.

- 5.15 The ANAO stressed that ‘the existing arrangements do give rise to some uncertainty about the extent to which the Auditor-General’s mandate extends to a review or examination of actions of Ministers and their staff in terms of the administration of government programs.’⁷
- 5.16 The ANAO noted that section 20 provides for audits by arrangement. However access powers set out in sections 32 and 33 cannot be used where an audit is conducted under section 20. An audit by arrangement was entered into with the Minister for Health and Aged Services in connection with the audit of Magnetic Resonance Imaging Services.⁸
- 5.17 In a supplementary submission, the ANAO suggested that the Act could be amended to give more clarification to the role of Ministers in relation to their administrative duties. The ANAO proposed that a further section be added to Part 4, Division 2 of the Act stating:
- A performance audit conducted under section 15, 16, 17 or 18 may include examination of any administrative activity carried out by a Minister in connection with the Agency, body or persons concerned.⁹
- 5.18 In addition to this amendment, the ANAO suggested that the EM should be amended ‘to make it clear that this does not mean the Auditor General’s mandate extends to an examination of the appropriateness of government policy.’¹⁰

Conclusions

- 5.19 The Auditor-General is not seeking to conduct performance audits of a Minister. However, the Auditor-General in conducting a performance audit of an agency may need to interview a Minister in relation to aspects of program administration. The Explanatory Memorandum (EM) to the Auditor-General Bill 1996 was clear that the Auditor-General’s powers do not extend to auditing the performance of Ministers. However, the EM confirmed that statutory office holders do have administrative responsibilities and the ‘administrative functions of statutory office holders may be subject to a performance audit.’
- 5.20 The Committee concludes that while Ministers should not be subject to performance audit, they should be available to assist the Auditor-General with information relating to the audit of program administration. Where

7 Australian National Audit Office, *Submission No. 6*, p. 10.

8 Australian National Audit Office, *Submission No. 6*, p. 10.

9 Australian National Audit Office, *Submission No. 13*, p. 1.

10 Australian National Audit Office, *Submission No. 13*, p. 1.

there is confusion as to a Minister's need for involvement in an audit, the Auditor-General and the Minister should seek to resolve these matters possibly using section 20 of the Act relating to audits by arrangement.

Purchaser and provider agencies

- 5.21 The Department of Family and Community Services (FaCS) purchases services from Centrelink. In this respect, FaCS and Centrelink are in a purchaser/provider relationship. FaCS has brought attention to the case where the Auditor-General conducts a performance audit of services provided by Centrelink, but which are purchased by FaCS. FaCS commented that for 'audits of services delivered via a purchaser-provider agreement, the Auditor-General provides proposed audit reports and other communications to the provider, even though they may be relevant to the purchaser.'¹¹
- 5.22 FaCS asserts that in those cases where its provider agencies are audited, then it should be consulted and provided, for example, with proposed reports. FaCS indicated that, in practice, it has a memorandum of understanding with Centrelink which 'establishes protocols and processes to attain certain information'.¹² FaCS concluded, however, that it did not want to rely on goodwill and memorandum of understandings as they have no force in law.
- 5.23 The ANAO responded that, in those cases where services involve both purchaser and provider agencies, it would conduct multiagency audits and both agencies would get access to the information. The Auditor-General commented that there 'would be very few times that we would do audits, particularly performance audits, when we do not do a purchaser and provider—the left and right hand so to speak.'¹³
- 5.24 The Auditor-General's principal point was that in practice the sharing of information was working well. For example, the Chairman of the board of Centrelink makes all the information available to the two secretaries who are on the board. The Auditor-General, however, believed that it was inappropriate for his office to provide proposed audit reports to other agencies that may have a financial interest in the audited agency. The

11 Department of Family and Community Services, *Submission No. 10*, p. 3.

12 Dr David Rosalky, Department of Family and Community Services, *Transcript*, p. 74.

13 Mr Pat Barrett, Australian National Audit Office, *Transcript*, p. 29.

Auditor-General made the analogy that this approach would be totally inappropriate in the private sector.¹⁴

Conclusions

5.25 The Department of Family and Community Services (FaCS) reported that it should receive audit information from the Auditor-General where an audit is conducted on its provider agencies. The Committee acknowledges that the issues raised by FaCS are significant, and agrees with them. In the case of FaCS and Centrelink, both the CEOs of these agencies are on the board of Centrelink so the provision of audit information should be straight forward.

The appointment of the Independent Auditor

5.26 The appointment and functions of the Independent Auditor are set out in Part 7 of the Act, and Schedule 2 to the Act.

5.27 The Independent Auditor is appointed by the Governor-General on the recommendation of the responsible Minister for a term of at least 3 years and not more than five years. The Minister must not make a recommendation to the Governor-General without first referring the proposed recommendation to the Joint Committee of Public Accounts and Audit.

5.28 In January 2000 the responsible Minister referred to the Committee a proposed recommendation for the position of Independent Auditor. This was the first time that such a reference had been made to the Committee under the Act.

5.29 In February 2000 the Committee conducted a public hearing where the Minister's nominee for Independent Auditor, Mr Michael Coleman, responded to questions from the Committee. Based on the discussions, the Committee approved the Minister's recommendation for appointment of Mr Coleman as Independent Auditor.

Conclusions

5.30 The Committee is satisfied with the process for considering the recommendation for appointment of the Independent Auditor. The Act

14 Mr Pat Barrett, Australian National Audit Office, *Transcript*, p. 30.

sets out a similar process for considering the recommendation for appointment of the Auditor-General.

- 5.31 The Committee, in considering the recommendations for appointment of either the Independent Auditor or Auditor-General, asserts that the conduct of a public hearing where the Government's nominee is examined is appropriate. This will be a feature of future appointments.

The role of the Independent Auditor

- 5.32 The Independent Auditor is the Parliament's auditor of the ANAO. The Independent Auditor audits the financial statements of the ANAO, and may at any time conduct a performance audit of the ANAO. These powers are set down in sections 44 and 45 of the Act.
- 5.33 The Independent Auditor has undertaken two performance audits of the ANAO as part of a 'three phase process of performance audits'. These audits, and a summary of their findings are detailed below.

Report on Results of a Performance Audit of the Strategic Planning Framework, Australian National Audit Office, April 2000

- 5.34 The Independent Auditor examined the ANAO's strategic planning process for the purpose of 'forming a view about whether the ANAO's strategic planning framework is appropriately structured and the process is being undertaken in a manner that will assist in ensuring that resources available to the ANAO are being utilised in an efficient and effective manner'. In addition, the Independent Auditor sought to suggest ways 'by which management practices, including procedures for monitoring performance, might be improved.'¹⁵
- 5.35 The Independent Auditor was satisfied that 'the ANAO's strategic planning framework is well structured and incorporates all of the elements that should form part of an efficient and effective corporate planning process.' The Independent Auditor stated:

The purpose, content and timing of the detailed plans within the framework are appropriate given the operations of the ANAO. The process provides meaningful and useful information which

15 Independent Auditor, *Report on Results of a Performance Audit of the Strategic Planning Framework, Australian National Audit Office, April 2000*, p. 1.

allows the ANAO to plan effectively for both their current activities and future developments.¹⁶

5.36 The Independent Auditor's review identified a range of opportunities including:

- the ANAO should ensure that appropriate strategies are developed to address the significant change to methods of government transacting business in the future due to new e-commerce systems;
- a three year planning cycle should be formalised to coordinate each of the various elements of the strategic planning framework;
- a discrete presentation of the ANAO's strategic planning framework should be incorporated into the formal induction process for new personnel;
- the ANAO's strategies and the corresponding indicators of success and KPIs (key performance indicators) appear appropriate and aligned with the key result areas. However, some of the current KPIs are broad in nature and lack qualitative definition. Therefore, the Independent Auditor recommended improvements be made to the definition of the KPIs; and
- a series of actions should be undertaken in order to fully implement the risk management framework and integrate it into the strategic planning framework.¹⁷

Report on Results of a Performance Audit of the Planning and Resource Allocation Processes, Australian National Audit Office, December 2000.

5.37 The objectives of this audit were to perform an independent and systematic examination of the ANAO's high level resource allocation and performance audit selection process for the purpose of 'forming a view about whether the processes are effective in ensuring the economic and efficient utilisation of the resources available to the ANAO'.¹⁸

5.38 The Independent Auditor concluded that the ANAO 'has a planning and resource allocation process that is well structured.' The Independent Auditor stated:

16 *ibid.*, p. 2.

17 *ibid.*, p. 2.

18 Independent Auditor, *Report on Results of a Performance Audit of the Planning and Resource Allocation Processes, Australian National Audit Office, December 2000*, p. 1.

The processes for selection of performance audit topics appear comprehensive, leading to the identification of relevant and appropriate topics. The ANAO takes note of input from stakeholders, including agencies and the JCPAA.¹⁹

5.39 The Independent Auditor's review identified a range of opportunities including:

- the recommendation that knowledge management policy guidelines be established to ensure that potential audit topics are recorded for future reference when they are tabled;
- the recommendation that the numerical ratings system used to assess potential performance audit topics should be expanded to separately rate key issues that may lead to increased risk; and
- the recommendation that as part of the initial planning phase, the selection criteria for performance audits be discussed with the JCPAA.²⁰

Conclusions

5.40 The Independent Auditor agreed to a Committee request to conduct a performance audit of the Australian National Audit Office and the Committee expects that this will be done.

5.41 The Committee examines the Independent Auditor's reports of the ANAO, and has made a practise of receiving a briefing from the Independent Auditor on his findings of each of his reports.

5.42 The Committee is satisfied with the way the process is working and concludes that the first two reports of the Independent Auditor have been useful. The Independent Auditor's reviews are directed at the planning level relating to various administrative frameworks and processes. It is appropriate that the Independent Auditor focus on these issues as it is essential that the framework and processes of the ANAO are working effectively and efficiently.

5.43 However, the Committee also has an interest in assessing the efficiency, effectiveness and appropriateness of some of the ANAO's micro-level outcomes. For example, whether individual performance audits conducted by the ANAO are making a sufficient and robust contribution to improving public administration. The Independent Auditor has not conducted this type of scrutiny of ANAO work product.

19 *ibid.*, p. 2.

20 *ibid.*, p. 3.

- 5.44 The Committee has a legislative responsibility to review all reports of the Auditor-General. As part of this responsibility, every quarter the Committee examines a number of performance audits in a round table forum. The primary objective of this public examination is to ensure that the audited agency is taking into account the findings and recommendations of the ANAO, and, unless there is very good reason not to, implementing the ANAO's advice.
- 5.45 At the same time, the Committee also wants performance information relating to the outcomes of performance audits. This is often implicit in a performance audit and is based on such things as the number of recommendations agreed to by the audited agency, and where efficiency savings have been identified.
- 5.46 In addition, the ANAO reports on its performance in its Annual Report. The ANAO indicates that both quantitative and qualitative measure are used to assess the ANAO's performance.²¹ The primary performance attributes for the ANAO's performance audit function include:
- number of reports;
 - length of reports;
 - timeliness of reports; and
 - resource usage.
- 5.47 In addition, the ANAO reports on how its performance audit activities contribute to improving public administration. The ANAO commented that 'if the reports of performance audits are to be viewed as adding value to public administration and accountability, it is important that the majority of their recommendations are recognised, agreed and implemented by entities as such.'²²
- 5.48 In relation to the financial impact of performance audits, the ANAO commented that a 'further measure of the impact of performance audit services is the potential financial benefits that could be realised from implementation of audit report recommendations that are usually agreed with the entities concerned.' For example, the potential financial benefit of performance audits in 1998-99 was \$502 million.²³
- 5.49 The Committee acknowledges the value of the ANAO performance information about its outputs through its Annual Report. The Committee

21 The Auditor-General, *Annual Report, 1999-2000*, Canberra, p. 21.

22 *ibid.*, p. 33.

23 *ibid.*, pp. 34-35.

suggests that enhancements could be made if the ANAO provided, in each performance audit, performance information showing explicitly how the ANAO's output has contributed to improving public administration in relation to an audited agency or agencies.

- 5.50 For example, for each performance audit the ANAO states the cost of conducting the audit. It would be beneficial if the ANAO then commented on the qualitative and quantitative benefits that have arisen from the audit or would arise if the audited agency implemented all the recommendations. This type of information would help to show, in explicit terms, what contribution the ANAO has made. In many cases, this information is implicit in the performance audit, but there would be benefit if a range of explicit statements were made about the possible outcomes of the audit.
- 5.51 The Committee accepts that it may not be possible, with every audit, to accurately project the financial benefits that may arise if recommendations were accepted. But where it is clear that financial benefits would arise, then the ANAO should bring attention to this in the audit report.
- 5.52 If the ANAO provided this type of outcome information in its performance audits, it would provide this Committee, or any other Parliamentary Committee, with a valuable source of information when scrutinising audited agencies. In addition, if the ANAO indicated in each performance audit how its work has contributed to the audited agency and the Parliament, then this may assist the Independent Auditor in conducting his function.
- 5.53 The Committee refers this conclusion to the Auditor-General for his consideration.

Bob Charles, MP
Chairman
29 August 2001