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Executive Minute
Report 407
April 2007



Australian Government
Department of Health and Ageing

Facsimile

Date:	28 March 2007	Total pages:	9
TO:	Joint Committee of Public Accounts and Audit	Telephone:	
Attention:	Committee Secretary	Facsimile:	(02) 6277 2220
Regarding:	Report No.407 of the Joint Committee of Public Accounts and Audit		
FROM:	Penni Moore	Telephone:	(02) 6289 8325
Branch/Div.:	Ministerial and Parliamentary Support Branch / Portfolio Strategies Division	Facsimile:	(02) 6289 1290

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MESSAGE:

To the Committee Secretary

Please find attached a copy of a letter from the Minister of Health and Ageing, the Hon Tony Abbott MP, in relation to Report No. 407 of the Joint Committee of Public Accounts and Audit.

Thank you for your assistance in this matter.

Penni Moore
A/g Assistant Director
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THE HON TONY ABBOTT MP
MINISTER FOR HEALTH AND AGEING
Leader of the House of Representatives

Mr Phillip Barresi MP
Chair
Joint Committee of Public Accounts and Audit
Suite R1.108
Parliament House
CANBERRA ACT 2600

Dear Mr Barresi *Phil*

I am writing to you in relation to Report No. 407 of the Joint Committee of Public Accounts and Audit (JCPAA).

The JCPAA has made a total of nine recommendations in relation to Australian Radiation Protection and Nuclear Safety Agency (ARPANSA), a part of the Health and Ageing portfolio, relating mainly to ARPANSA's regulatory functions. Two recommendations were referred to my Department for response and the remainder were referred to ARPANSA. Two executive minutes covering the responses from ARPANSA and my Department are enclosed.

ARPANSA responsibilities

Recommendation 4 requires ARPANSA to implement a revised regulatory management system. Recommendations 7 and 8 relate to the preparation of regulatory guidance by ARPANSA to assist it to carry out its regulatory function more transparently. Recommendations 9, 10 and 12 relate to the identification, management and reporting of breaches of licence as well as overall reporting requirements of ARPANSA to the Parliament on its activities. Recommendation 11 encourages ARPANSA to ensure that it maintains strong relationships with its State and Territory counterparts.

I have reviewed the enclosed responses and am satisfied that ARPANSA is making significant progress with the implementation of all recommendations relating to the reform and improvement of the management of its regulatory function.

Department of Health and Ageing responsibilities

Recommendation 5 requires me to re-examine the process of appointment to the position of Chief Executive Officer (CEO) of ARPANSA. Recommendation 6 requires that my Department review and report on its obligations and efforts regarding the monitoring and support of agencies within the portfolio.

I have reviewed the enclosed responses and am satisfied that the process to appoint the CEO of ARPANSA was rigorous, appropriate, consistent with government guidelines and gave appropriate regard to the technical and management expertise required for the position. I am also satisfied that my Department has acted within its mandate in its monitoring and support of ARPANSA.

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Enclosed are the reports responding to the Recommendations, in the executive minute format required by the JCPAA and signed by the Secretary of my Department and the CEO of ARPANSA.

Yours sincerely

TONY ABBOTT

Encl (2)

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EXECUTIVE MINUTE

on

**JOINT COMMITTEE OF PUBLIC ACCOUNTS AND AUDIT
REPORT NO. 407*****Review of Auditor-General's Reports: Report No. 30 of 2004-2005 - Regulation of
Commonwealth Radiation Protection and Nuclear Activities*****General Comments**

The Committee's Report made nine recommendations in relation to the Australian National Audit Office's (ANAO) performance audit of the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA). Two of these recommendations were referred to the Department of Health and Ageing for consideration and response.

In accordance with my letter of 10 December 2006 indicating that recommendations 5 and 6 are 'administrative' in nature, responses are required by 4 March 2007. The responses to these recommendations are below.

Responses to Recommendations 5 and 6**Recommendation No. 5 paragraph 3.36**

The Committee recommends that the Minister for Health and Ageing re-examine the process of appointment to the position of CEO of ARPANSA. In particular, the process needs to seek a person with management expertise sufficient to manage the technical expertise that exists within the organisation.

Response to Recommendation No. 5

This recommendation is supported and I have examined the process for appointing the CEO of ARPANSA. I consider it to be rigorous, appropriate and consistent with government guidelines for such appointments. The process is governed by the requirements of the Cabinet Handbook and *Australian Radiation Protection and Nuclear Safety Act 1998* (the Act).

Dr Loy was originally appointed to the position of CEO by the Governor General in April 1999. The position was advertised nationally and a selection panel was established to identify preferred nominees for the then Minister's consideration. The panel included senior representatives of this department and two independent agencies, the Australian Nuclear Science and Technology Organisation (ANSTO) and the then Australia New Zealand Food Authority (ANZFA). My Department managed the process to identify a candidate who had appropriate management and technical expertise for the position. The candidate was recommended to, and the appointment ratified by, the then Minister, Cabinet and the Governor General's Executive Council.

Dr Loy worked at the Senior Executive Service level for 15 years (1984 - 1999) including managing large divisions of the Commonwealth Department of Health and Ageing. He has a Bachelor of Science (First Class Honours) and a PHD in physics. Dr Loy was reappointed in

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April 2004 based on the then Minister's (Parliamentary Secretary Worth) assessment that he had performed strongly in the previous five years.

The Department has reviewed the processes undertaken to appoint Dr Loy in 1999 and to reappoint him in 2004. Both processes were undertaken in accordance with the requirements of the Cabinet Handbook and the Act, and were rigorous, appropriate and consistent with government guidelines for such an appointment.

Recommendation No. 6 paragraph 3.41

The Committee recommends that the Department of Health and Ageing review and report on their obligations and efforts regarding the monitoring and support of agencies within the portfolio.

Response to Recommendation No. 6

I support Recommendation 6 and have reviewed the Department's obligations.

There are a large number of agencies and statutory office holders within the Health and Ageing portfolio, each with varying degrees of legal and financial separation from the Department. The Government has reviewed the governance arrangements of most of these agencies and statutory office holders (including ARPANSA) in the context of the Uhrig review process. The assessment of ARPANSA recommended no changes to its governance arrangements.

The governance arrangements for ARPANSA are subject to the *Australian Radiation Protection and Nuclear Safety Act 1998* (the Act) and the *Financial Management and Accountability Act 1997* (FMA Act). So while ARPANSA is part of the Health and Ageing portfolio, I do not have the authority to direct the CEO.

The CEO has independent authority to exercise functions, which are set out under the Act. The Act gives the Minister authority to direct the CEO with respect to the performance of his/her functions.

The CEO and staff are prescribed under the FMA Act and the CEO is directly accountable to ministers and Parliament for the day to day running of the organisation and for expenditure. ARPANSA is also a statutory agency for the purposes of the *Public Service Act 1999*.

The Department has a role in providing policy advice to ministers on the broader context in which portfolio agencies operate and on the agencies' performance in achieving policy objectives. The Minister for Finance and Administration and the Minister for Health and Ageing have delegated authority to me to request financial information from small agencies for the purposes of undertaking a monitoring function consistent with the Budget Estimates Framework Review arrangements. This delegation does not extend to their business operations.

Following the report by the Australian National Audit Office, the Department was invited by ARPANSA in April 2005 to make a written submission in relation to the processes adopted by ARPANSA in conducting its regulatory functions. The Department did not make a

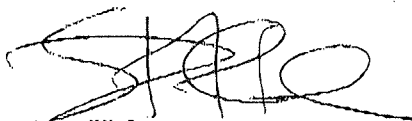
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written submission on the basis that the audit related to business operations for which the CEO is directly accountable to the Minister. To enable it to fulfil its role as the primary source of policy advice to ministers, the Department asked to be kept informed of the progress of the review.

ARPANSA has provided regular updates (initially monthly and then quarterly) to Assistant Minister Pyne, copied to the Minister for Health and Ageing, on the progress made in addressing the ANAO recommendations. These reports indicate that ARPANSA has made steady progress.

I consider that the Department has acted within its mandate in regard to monitoring and support of ARPANSA.

I will continue to monitor the financial health of small portfolio agencies and meet regularly with the chief executives of portfolio agencies to discuss issues affecting agencies.



Jane Halton
Secretary
Department of Health and Ageing

13 February 2007

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EXECUTIVE MINUTE

on

**JOINT COMMITTEE OF PUBLIC ACCOUNTS AND AUDIT
REPORT No. 407****Review of Auditor General's Reports tabled between 18 January and 18 April
2005****General comments**

The Committee's Report made nine recommendations in relation to the Australian National Audit Office's (ANAO) performance audit of ARPANSA. Seven of these recommendations were referred to the Department of Health and Ageing for consideration and response.

I note that the recommendations are 'administrative' in nature. I note also that responses are required by 4 March 2007. The responses to these recommendations are below.

Since the release of Audit Report No 30: Regulation of Commonwealth Radiation and Nuclear Activities, the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) has undertaken the task of examining the 19 recommendations set out in that report and implementing reform to address the recommendations. The work has evolved from a project based approach to the implementation of the recommendations to the establishment of a new organisation structure that will make the reforms integral to the Agency. The aim is to encourage a focus on continuous improvement of regulatory management, including the on-going training of staff.

In the new year (May 2007) the International Atomic Energy Agency (IAEA) will conduct an integrated regulatory review assessment of ARPANSA's regulation of radiation protection and nuclear safety. The key outcome of this review will be a comprehensive self assessment by ARPANSA against key international standards, an action plan for implementation of key strategies and a comprehensive audit by international peers of the current status of the efficacy of the implementation of the ARPANS regulatory system. The final report of the IRRS Mission is expected to be available by the end of June 2007.

Response to the recommendations**Recommendation No. 4 paragraph 3.35**

The Committee recommends that ARPANSA's new information system include standards and procedures for ARPANSA's regulatory function and appropriate guiding documentation to ensure that the information system is correctly and consistently utilised to ensure accurate tracking.

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ARPANSA

I support the recommendation and note that the new regulatory management information system that ARPANSA has developed includes guidance on

- The data that needs to be collected (data selection);
- The manner in which the data is to be handled (data integrity and data collection);
- Data storage and retrieval;
- Data analysis and selection linked to key corporate reporting requirements both internal and external

The new system is to track all business process through workflow modules and is based on a 'controlled persons' database that captures information relevant to each controlled person, including application and licence status. The information in the controlled persons' database is linked to an event register and breach register, all of which connect into the ARPANSA records management system (TRIM).

Recommendation No. 7 paragraph 3.75

The Committee recommends that a new checklist of standards required for granting a licence be prepared, as part of the new information system that identifies when all conditions have been met and a licence has been granted.

ARPANSA

I support the recommendation and note that the matters that I must take into account when deciding whether or not to issue a licence under the ARPANS Act are set out in the ARPANS Act and ARPANS Regulations. The new application packs available on the ARPANSA website provide a checklist of information that must be provided. These will be augmented by additional regulatory guidance. An example of such regulatory guidance is the guidance on radioactive waste management facilities currently being completed after public consultation and guidance on decommissioning.

Recommendation No. 8 paragraph 3.76

The Committee recommends that ARPANSA provide appropriate guidance to staff on the circumstances under which a licence condition is appropriate and the scope of licence conditions.

ARPANSA

I support the recommendation and note that this guidance is currently in draft form.

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Recommendation No. 9 paragraph 3.158

The Committee recommends that ARPANSA provide a quarterly report to the Parliament on licence breaches including incidences of non-compliance. This requirement should include a short statement to the Parliament in the event where no breaches occur.

ARPANSA

I support the recommendation and note that I have an existing statutory obligation to provide a quarterly report to the Parliament. Section 60 of the Act sets out this requirement and includes at 60(3) the requirement that the CEO must include details of any breach of licence condition by a licensee during the quarter of which I am aware. I consider non-compliance to be synonymous with breach. I will include a paragraph in its quarterly report in circumstances where no breaches occur during a quarter.

Recommendation No. 10 paragraph 3.163

The Committee recommends that ARPANSA includes in its matrix of responses to breaches:

- clarification of response appropriate to differing levels of breach, particularly where the safety of people is at risk; and
- an appropriate system of delegation for dealing with breaches from less severe up to the CEO for serious breaches;
- this matrix is to be included in the quarterly report to Parliament on licence breaches.

ARPANSA

I support the recommendation and I have included these matters in my draft enforcement policy and underlying enforcement matrix which will be subject to consultation with all stakeholders. I will include the matrix in my quarterly report to the Parliament on licence breaches.

Recommendation No. 11 paragraph 3.190

The Committee recommends that ARPANSA's relationship with the relevant state and territory bodies be strengthened to facilitate the sharing of information in terms of national uniform standards for licensing and compliance monitoring of radiation sources and nuclear facilities

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ARPANSA

I support the recommendation and note that my staff and I meet regulators from each State and Territory following each regular ARPANSA Radiation Health Committee meeting in a Radiation Regulators Forum.

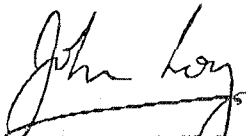
The Radiation Health Committee itself includes the State/Territory regulators and is the principal mechanism for promoting national uniformity.

Recommendation No. 12 paragraph 3.191

The Committee recommends that the CEO of ARPANSA and the Radiation Health Committee more transparently fill their roles for formulating national policies, codes and standards for the Commonwealth States and Territories by reporting on progress in the ARPANSA annual report.

ARPANSA

I support the recommendation and note that I currently report on the operations of all the statutory committees and council including progress on the development of policies, codes and standards in each quarterly and annual report to the Parliament.



Dr John Loy PSM
CEO of ARPANSA