Australian Government

GOVERNMENT RESPONSE TO

JOINT COMMITTEE OF PUBLIC ACCOUNTS AND AUDIT REPORT

INQUIRY INTO THE *AUDITOR-GENERAL ACT 1997*

September 2011

INTRODUCTION

The Australian Government welcomes the report of the Joint Committee of Public Accounts and Audit (JCPAA) following its inquiry into the *Auditor-General Act 1997* (the Act).

The report was tabled in the Parliament on 22 December 2010. On 28 February 2011, the Chair of the JCPAA, Mr Rob Oakeshott MP, introduced a Private Members Bill (the Auditor-General Amendment Bill 2011) to give effect to the majority of the report's recommendations. On 21 March 2011, the Deputy Chair of the JCPAA, Mrs Yvette D'Ath MP, informed the House of Representatives that the Australian Government broadly supported the intent of the bill but foreshadowed that the Government would be moving amendments to the bill to ensure that it would operate as intended by the JCPAA.

The Australian Government's response to the report is, to a large extent, contained in the Auditor-General Amendment Bill 2011, as amended.

RESPONSE TO RECOMMENDATIONS

The Committee made thirteen recommendations.

Recommendation 1

That the *Auditor-General Act 1997* be amended to provide the Auditor-General with explicit authority to conduct assurance engagements. In circumstances where such assurance engagements have been identified as priorities by the Parliament, they should be subject to the same information-gathering powers that pertain to performance audits undertaken by the Auditor-General. The Auditor-General should have the authority to determine arrangements, including reporting arrangements to the Parliament, to be followed in the conduct of these assurance engagements.

Response
Agreed.

In auditing terms, an assurance review involves an examination of one or more aspects of an agency's activities to provide a level of assurance that is less than that provided by a financial statement or performance audit. In undertaking assurance reviews, the Auditor-General adopts the professional standards issued by the Australian Auditing and Assurance Board.

The Auditor-General Amendment Bill, as amended, would give the Auditor-General the power to conduct assurance reviews of all Commonwealth agencies, authorities and companies. As with the proposed arrangements for audits of Government Business Enterprises (GBEs) as outlined in response to recommendation 2, assurance reviews of GBEs would need to be requested by the JCPAA. Assurance reviews of any other Australian

government agency, authority or company could be conducted at the Auditor-General's initiative.

Recommendation 2

That the Act be amended to provide the Auditor-General with the authority to initiate performance audits of Commonwealth controlled Government Business Enterprises.

Response
Not agreed.

The Act currently provides that GBEs can only be audited by the Auditor-General if the audit is requested by the JCPAA, the Minister responsible for the GBE or the Finance Minister.

Successive governments have taken the view that the Auditor-General should not have the ability to audit GBEs of his own motion. GBEs are subject to competitive pressures and disciplines that do not apply to other Commonwealth bodies and, to the greatest extent possible, they should be subject to the same audit arrangements as their competitors.

The Government considers that audits of GBEs should be requested by the Parliament in response to genuine public interest concerns about aspects of their operations, rather than as an incidental part of an annual work program. The JCPAA, which comprises members from across the political spectrum and can conduct hearings in private, is the appropriate body to consider whether a particular GBE should be audited.

Accordingly, the Auditor-General Amendment Bill, as amended, would allow the JCPAA alone to request an audit of a GBE by the Auditor-General. As is currently the case, the Auditor-General could ask the JCPAA to request an audit of a particular GBE.

Recommendation 3

That the Act be amended as necessary to enable the Auditor-General to review an agency's compliance with its responsibilities for a sub-set of performance indicators. Proposed performance indicators to be audited should be identified annually by the Auditor-General and forwarded to the Parliament, via the JCPAA for comment, in a manner similar to the annual performance audit work program for the ANAO.

The Auditor-General should be resourced appropriately to undertake this function.

Response
Agreed.

The Auditor-General Amendment Bill, as amended, would establish similar arrangements for the conduct of performance indicator audits of Australian Government agencies, authorities

and companies, including GBEs, as would apply to assurance reviews, as described in the response to Recommendation 1. Resourcing for the function will be considered in the normal manner as part of the process for setting the ANAO's annual appropriation.

Recommendation 4

That the Act be amended to make clear that claims of legal professional privilege do not override the Auditor-General's information gathering powers. The Act should also be amended to make clear that access to documents upon which legal professional privilege is claimed does not amount to a waiver of such privilege.

Response
Agreed. The necessary amendments are included in the Auditor-General Amendment Bill, as amended.

Recommendation 5

That subject to consultation with affected bodies, consideration be given to amending the Act so that all statutory authorities or other bodies that fall outside the ambit of the CAC Act are liable to pay audit fees for financial statements.

Response
Agreed in principle.

Whether individual entities that fall outside the ambit of the CAC Act are subject to audit fees should be considered on a case-by-case basis in keeping with the entity's governance arrangements. The Government considers that it is appropriate that some entities referred to in the report, such as the High Court, do not pay audit fees for financial statements. This is consistent with the position of Parliamentary Departments, Departments of State and other federal courts which are not required to pay such fees.

Recommendation 6

That section 21 of the Act be amended to reflect that the Auditor-General is able to audit any Commonwealth-controlled entity including Commonwealth-controlled companies and their subsidiaries.

Response
Agreed.

The necessary amendments are included in the Auditor-General Amendment Bill, as amended.

Recommendation 7

That the Act be amended to require the Auditor-General to set auditing and assurance standards.

Response
Agreed. The necessary amendments are included in the Auditor-General Amendment Bill, as amended.

Recommendation 8

The Committee suggests that the Privileges Committee of both the Senate and the House of Representatives examine in more detail the application of parliamentary privilege to ANAO draft reports, extracts of draft reports and working papers, noting the Auditor-General's status as an 'independent officer of the Parliament'.

Response
Noted. The Australian Government also notes that the Solicitor-General advised on 1 June 2001 that draft reports and working papers created by the Auditor-General in the course of an audit under the Act attract parliamentary privilege.

Recommendation 9

That the Auditor-General continue to provide the recipients of extracts of proposed audit reports with clear guidelines to clarify expectations around the submission of comments (e.g., the importance of brevity and clarity) and also the implications for naming other persons/entities/organisations in those comments which are published in full.

Response
Noted. The Auditor-General has advised that the ANAO has amended the advice that it provides to recipients of proposed reports to reflect the JCPAA's recommendation.

Recommendation 10

That all funding agreements between the Commonwealth and other levels of Government include standard clauses providing the Auditor-General with access to all information and records, and a capacity to inspect work on all projects, relating to the use of Commonwealth funds under those agreements.

Response
Not agreed.

The Government considers that the inclusion of access clauses in funding agreements should be negotiated on a case by case basis. The Government also notes that the amendments to implement recommendations 11, 12 and 13 below will give the Auditor-General the power to access information and records held by state and territory entities relating to the use of Commonwealth funds provided under such funding agreements.

Recommendation 11

That the Act be amended as necessary so that the Auditor-General may conduct a performance audit to directly assess the performance of bodies that receive Commonwealth funding in circumstances where there is a corresponding or reciprocal responsibility to deliver specified outcomes in accordance with agreed arrangements if a Minister or the Joint Committee of Public Accounts and Audit requests the audit.

The Auditor-General may ask a Minister or the Joint Committee of Public Accounts and Audit to make such a request.

Recommendation 12

That the Act be amended so that the functions performed by entities including private contractors on behalf of the Commonwealth in the delivery of government programs can be subject to direct audit by the Auditor-General.

Recommendation 13

That the Act be amended to ensure that when a decision is made by the Auditor-General to conduct an audit of a non-Commonwealth body, the reasons for that decision should be disclosed in the publication of the report.

Response to Recommendations 11, 12 and 13
Agreed. The necessary amendments are included in the Auditor-General Amendment Bill, as amended.