
The Parliament of the Commonwealth of Australia

Report 419

Inquiry into the *Auditor-General Act 1997*

Joint Committee of Public Accounts and Audit

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Canberra

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Foreword

This report completes an inquiry into the provisions of the *Auditor-General Act 1997* undertaken by the Joint Committee of Public Accounts and Audit in the 42nd Parliament.

The *Auditor-General Act 1997*, which replaced the *Audit Act 1901*, formally recognised the Auditor-General as an “Independent Officer of the Parliament”, and greatly strengthened the audit independence of him and the Australian National Audit Office (ANAO). The Act reflected many of the recommendations made by the Committee in its October 1996 report *Guarding the Independence of the Auditor-General*, and earlier reports.

In February 2009 the Committee resolved to review whether the provisions of the *Auditor-General Act 1997* remain adequate in the modern public sector environment, noting at the time that eight years had passed since the Committee’s last such review.

This report contains 13 recommendations. Amongst other things, the recommendations are directed to:

- ensuring that the Auditor-General has sufficient legislative backing for assurance reviews the Parliament may wish him to carry out (for example, the ANAO’s work on the annual *Defence Major Projects Report* and its former role in scrutinising proposed government advertising campaigns);
- removing antiquated restrictions on the Auditor-General’s capacity to initiate audits of Commonwealth Government Business Enterprises;
- enhancing the Auditor-General’s role in reviewing the adequacy of agencies’ performance indicators; and
- giving the Auditor-General greater authority to “follow the dollar” where non-Commonwealth bodies are in receipt of Commonwealth funding to deliver agreed outcomes.

Although this report is being released by the Committee in the 43rd Parliament the work for the inquiry, including the conduct of the public hearings and the preparation of this report, was undertaken by the previous Committee. I thank the members of that Committee, chaired by Sharon Grierson MP, for their work. I also thank those who gave evidence to the inquiry for their contribution.

Robert Oakeshott MP
Chair



Membership of the Committee

43rd Parliament

Chair Mr Robert Oakeshott MP

Deputy Chair Mrs Yvette D'Ath MP

Members The Hon Dick Adams MP
Mr Jamie Briggs MP
Ms Gai Brodtmann MP
Mr Darren Cheeseman MP
Mr Josh Frydenberg MP
Ms Deb O'Neill MP
Ms Laura Smyth MP
The Hon Alex Somlyay MP

Senator Guy Barnett
Senator Mark Bishop
Senator Annette Hurley
Senator Helen Kroger
Senator Glenn Sterle

42nd Parliament

Chair Ms Sharon Grierson MP

Deputy Chair Mr Petro Georgiou MP

Members

The Hon Dick Adams MP (from 17/08/09)	Senator Guy Barnett
The Hon Arch Bevis MP	Senator Mark Bishop
The Hon Bronwyn Bishop MP	Senator David Bushby (until 02/02/10)
Mr David Bradbury MP	Senator David Feeney
Mr Jamie Briggs MP	Senator Helen Kroger (from 02/02/10)
Mr Mark Butler MP (until 15/06/09)	Senator Kate Lundy
Ms Catherine King MP	
The Hon Sussan Ley MP (from 03/02/10)	
Mr Shayne Neumann MP	
Mr Stuart Robert MP (until 03/02/10)	

Committee secretariat

Secretary	Mr Russell Chafer
Inquiry Secretary	Dr Kris Veenstra
Other research staff	Ms Pauline Cullen
	Dr Narelle McGlusky
	Mr Ian McDonald



Terms of reference

On 25 February 2009, the Committee resolved to review and report on whether the provisions of the *Auditor-General Act 1997* remain adequate in the modern public sector environment, including but not limited to:

- a) whether the Act's focus on the Auditor-General's traditional assurance audit and performance audit roles gives the ANAO sufficient legislative backing for newer functions, for example the Defence "Major Projects Report" and, from July 2008, the Auditor-General's reviews of government advertising to give the public confidence that campaigns are legitimately authorised, properly targeted and non-political;
- b) any amendments necessary to clarify the ANAO's rights and obligations in relation to conducting audits and reviews;
- c) whether there should be changes to the categories of agencies that the Auditor-General audits, in particular section 16 of the Act which limits the Auditor-General's capacity to audit Government Business Enterprises (GBEs);
- d) any proposed amendments to the Act which would strengthen the audit independence of the ANAO and the Auditor-General's capacity to fulfil his role as an Independent Officer of the Parliament; and
- e) the Auditor-General's capacity to examine the financial and performance outcomes from Commonwealth investments in the private sector and Commonwealth grants made to State and local governments.

The inquiry shall have regard to the recommendations made by the Committee in its August 2001 *Report 386: Review of the Auditor-General Act 1997* and the consequent amendments to the Act made by the *Auditor-General Amendment Act 2009*.



List of abbreviations

ACAG	Australasian Council of Auditors-General
A-G	Auditor-General
ANAO	Australian National Audit Office
APRA	Australian Prudential Regulation Authority
ASAE	Standard on Assurance Engagements
BER	Building the Education Revolution
CAC Act	<i>Commonwealth Authorities and Companies Act 1997</i>
CEO	Chief Executive Officer
COAG	Council of Australian Governments
DEEWR	Department of Education, Employment and Workplace Relations
DMO	Defence Materiel Organisation
FMA Act	<i>Financial Management and Accountability Act 1997</i>
FOI Act	<i>Freedom of Information Act 1982</i>
GBE	Government Business Enterprise
GST	Goods and Services Tax
IPAA	Institute of Public Administration Australia

JCPA(A)	Joint Committee of Public Accounts (and Audit)
MPR	Major Projects Report
NBN	National Broadband Network
OECD	Organisation for Economic Co-operation and Development
PBS	Portfolio Budget Statement
SPPs	Specific Purpose Payments



List of recommendations

Recommendation 1 (page 13)

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.

Recommendation 2 (page 20)

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

Recommendation 3 (page 25)

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.

Recommendation 4 (page 30)

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.

Recommendation 5 (page 31)

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.

Recommendation 6 (page 32)

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.

Recommendation 7 (page 34)

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

Recommendation 8 (page 36)

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'.

Recommendation 9 (page 45)

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.

Recommendation 10 (page 64)

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.

Recommendation 11 (page 67)

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 (page 71)

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 (page 71)

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.