2004

THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

TABLING STATEMENT

Standing Committee on Public Accounts

Report No. 9

Review of Auditor-General Report No. 9 of 2003 - Annual Management Report for the Year Ended 30 June 2003

Tabled by
Jon Stanhope MLA
Chief Minister

22 June 2004

Government Response to Report No. 9 of the Standing Committee on Public Accounts - Review of Auditor-General Report No. 9 of 2003 - Annual Management Report for the Year Ended 30 June 2003

Mr Speaker, I am pleased to present the Government's Response to Report No. 9 of the Standing Committee on Public Accounts on its Review of Auditor-General Report No. 9 of 2003 - Annual Management Report for the Year Ended 30 June 2003.

The Committee makes four recommendations, three of which warrant a response by the Government.

The Committee recommends that amendments to Sections 34 and 19 of the Auditor-General Act, as proposed by the former Auditor-General, be included in the Government's amendments to the Act. I understand that this recommendation arose from material provided to the Committee by the Audit Office. Unfortunately, the Committee seems to have drawn the wrong conclusions from that material.

The Committee suggests that the material provided to it by the Audit Office reflected the Government's response. That is not correct. While the Audit Office was provided with certain material during the development of amendments to the Act, that material did not represent a final Government position and merely reflected proposed positions on particular matters. The Committee itself acknowledges that the source documents were only drafts.

However, the fact that the source documents were only drafts did not deter the Committee from making a recommendation on this matter. This is particularly disappointing given that the Committee does not appear to have sought or obtained any alternative views.

The final Government position was, in fact, to support the former Auditor-General's suggested amendment to Section 34. Members will note that the relevant amendment is included in the Auditor-General Amendment Bill 2004 that was tabled in the May sittings.

In relation to Section 19 of the Act, the Committee considers that the Government should adopt a particular amendment suggested by the Auditor-General. It should be noted that the Bill currently before the Assembly does include amendments to Section 19 suggested by the Auditor-General. However, one particular amendment - the one identified in the Committee's report - is not included.

The former Auditor-General considered that, under Section 19 of the Act, the Auditor-General is legally forbidden from including certain sensitive information in a report to the Assembly. He asked that the Section be amended to give the Auditor-General discretion to include sensitive information if the Auditor-General considers that the public interest would be best served by the information being generally available.

However the level of discretion sought by the former Auditor General is, in fact, already provided under the legislation. The effect of the Section is that the Auditor-General must not include sensitive information in a report if in his opinion it would be contrary to the public interest. Therefore, if the Auditor-General does not believe it would be contrary to the public interest, such information could be included in a report to the Assembly. On this basis, the discretion sought by the former Auditor-General is already provided under the Act and no amendment is necessary.

Turning to the other Committee recommendations, the Committee recommends that the Audit Office incorporate Section 12(2) of the Auditor-General Act into performance audits and, where this is not done, include reasons why within the Report.

This is a curious recommendation. Section 12(2) of the Auditor-General Act states:

> "In the conduct of a performance audit, the Auditor-General shall, where appropriate, take into account environmental issues relative to the operations being reviewed or examined, having regard to the principles of ecologically sustainable development."

Therefore, where appropriate, the Auditor-General is already required to incorporate that section into performance audits. The inclusion of reasons in the report where this is not done is a matter for the Audit Office.

The Committee also recommends that the Audit Office resources be increased to take account of the forementioned recommendation. The Government does not agree to this recommendation. As I have just stated, consideration of environmental issues in a performance audit is an existing requirement under the legislation. The Government does not consider that the Office's resources should be increased to fulfil an existing requirement.

Mr Speaker, I commend the Government Response to the Assembly.

2004

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GOVERNMENT RESPONSE

Standing Committee on Public Accounts

Report No. 9

Review of Auditor-General Report No. 9 of 2003 - Annual Management Report for the Year Ended 30 June 2003

Tabled by
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Government Response

Report No. 9 of the Standing Committee on Public Accounts - Review of Auditor-General Report No. 9 of 2003 - Annual Management Report for the Year Ended 30 June 2003

Background

The Auditor-General produces an Annual Management Report each year. Like other Auditor-General reports, the report is tabled in the Legislative Assembly and forwarded to the Standing Committee on Public Accounts for review. Auditor-General Report No. 9 of 2003 - Annual Management Report for the Year Ended 30 June 2003 was tabled in the Assembly on 21 August 2003. The Standing Committee on Public Accounts' review of the Auditor-General Report was tabled on 4 March 2004. The Standing Committee Report makes 4 recommendations.

Clarification

The Government notes that, at paragraph 2.18 of its report, the Committee states "The Government responded to the Auditor-General's proposed amendments to section 34 ...". This statement is incorrect.

The former Auditor-General was provided with information, in confidence, as part of the development of amendments to the Auditor-General Act. It is understood that the Audit Office inadvertently included details of this information in material provided to the Committee. This matter has been addressed with the Audit Office

As the documents provided to the Auditor-General were in draft form, they did not represent a formal Government position and were not, as suggested by the Committee, a Government response. The Committee report itself identifies the source documents as draft (refer paragraph 2.17). The Committee appears neither to have obtained nor sought any alternative views on these matters.

Response to Committee Recommendations

Recommendation 1
The Auditor-General consult with the Standing Committee on Public Accounts in relation to the annual audit program at the commencement of each calendar year.

Government Response
Noted.

Recommendation 2
In the interest of best practice, amendment to sections 34 and 19 as proposed by the former Auditor-General be incorporated into the Government's amendments to the Auditor-General Act. (Ms MacDonald dissented from this recommendation).

Government Response

Agreed in Part.
The former Auditor-General put forward a range of suggested amendments to the Auditor-General Act. The Auditor-General Amendment Bill 2004 tabled by the Government addresses the vast majority of the issues that he raised.

In relation to Section 34, the amendments sought by the former Auditor-General have been addressed in the Government's proposed amendments to the Act. As noted in the clarification on page 1 of this response, the Committee appears to have based its recommendation on draft documents that did not reflect the final Government position.

With regard to Section 19, the former Auditor-General put forward a number of amendments to this section. Most of these have been incorporated in the Government's legislation. One change that was not included in the Bill, and the one identified in the Committee's report, relates to the Auditor-General having discretion to include sensitive information in a report to the Legislative Assembly if the Auditor-General considers that the public interest would be best served by the information being generally available.

This amendment has not been included in the Government's legislation as it is not necessary. The discretion sought by the Auditor-General is already provided under the legislation. More specifically, the effect of the current Section is that the Auditor-General must not include sensitive information in a report if in his opinion it would be contrary to the public interest. Therefore, if the Auditor-General does not believe it would be contrary to the public interest, such information could be included in a report to the Assembly. On this basis, no amendment is necessary.

Recommendation 3
The Auditor-General incorporate subsection 12(2) of the *Auditor-General Act 1996* into performance audits, and where this is not done, outline within the Report, the reasons why.

Government Response

Noted.
Subsection 12(2) of the Auditor-General Act states that "In the conduct of a performance audit, the Auditor-General shall, where appropriate, take into account environmental issues relative to the operations being reviewed or examined, having regard to the principles of ecologically sustainable development." Therefore, where appropriate, the Auditor-General is already required to incorporate this section into performance audits. The inclusion of reasons in the Report when this is not done is a matter for the Audit Office.

Recommendation 4
The Auditor-General's Office Budget be increased to take into account the implications of recommendation 3, and that the potential for a dedicated environmental and social Auditor position be considered.

<u>Government Response</u>

Not agreed

As noted above the Audit Office is already required to consider environmental matters in the conduct of a performance audit. The Government does not consider that the Office's resources should be increased to fulfil an existing requirement.