LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

REVIEW OF AUDITOR-GENERAL'S REPORT NUMBER 2, 1996

Taxi Plates Auction

STANDING COMMITTEE ON PUBLIC ACCOUNTS
Report Number 18

August 1996

RESOLUTION OF APPOINTMENT

The Standing Committee on Public Accounts was appointed by the Legislative Assembly on 9 March 1995 with the following terms of reference:

(a) examine:

(i) the accounts of the receipts and expenditure of the Australian Capital Territory;

(ii) the financial affairs of authorities of the Australian Capital Territory; and

(iii) all reports of the Auditor-General which have been laid before the Assembly;

(b) report to the Assembly, with such comments as it thinks fit, any items or matters in those accounts, statements and reports, or any circumstances connected with them, to which the Committee is of the opinion that the attention of the Assembly should be directed;

(c) inquire into any question in connection with the public accounts which is referred to it by the Assembly and to report to the Assembly on that question; and

(d) inquire into and report on the implementation of the *Public Sector Management Act 1994* with particular reference to:

(i) the public interest; and

(ii) any other related matter.

MEMBERSHIP OF THE COMMITTEE

Mr Bill Wood MLA (From 26 March 1996. Elected Committee Chair 3 April 1996)

Mr Trevor Kaine MLA (Deputy Committee Chair)

Ms Lucy Horodny MLA

Ms Rosemary Follett MLA (To 26 March 1996. Former Committee Chair)

Secretary: Bill Symington

1. INTRODUCTION

Background

1.1. Auditor-General's Report No 2, 1996 was presented to the Assembly on 26 March 1996.

1.2. This audit arose from an approach to the Auditor-General by the Chief Minister seeking advice on guidelines to assist Members of the Legislative Assembly and Government officials in making decisions on matters which may affect, or be influenced by, family connections and commercial dealings with companies and individuals who are partners of family members of Members of the Assembly.[1]

1.3. In agreeing to the Chief Minister's request, the Auditor-General advised that the situation which gave rise to the approach would also be subject to an audit. That situation concerned the appointment of the auctioneering firm, Harold Hird and Associates, to auction 15 taxi plates in late 1995. Harold Hird and Associates is a company established by the father of Mr Harold Hird MLA. The Assembly was advised that Mr Hird MLA no longer owns any shares in the company. The Auditor-General also examined the taxi plate auction processes, having regard to movements in taxi plate prices, the release of plates, numbers of taxis compared to other States and Territories, and the reasons for issuing 15 plates.[2]

2. AUDIT FINDINGS

Taxi Plate Prices

2.1. The audit found that taxi plate prices rose steadily to an average $241,000 in July 1994 but declined sharply in 1995 to $162,000. This coincided with a Taxi Industry Advisory Council's (TIAC) recommendation that five plates be issued in 1995, and the audit found that the issue of a larger number of plates in that year fundamentally altered the existing relativity between customer demand for taxis and the number of taxis available.[3]

2.2. The audit noted that changing the relativity between customer demand and taxi numbers was highly likely to reduce auction prices in the absence of alternative marketing strategies, and observed that a more comprehensive and better targeted marketing campaign could have generated better financial returns for the ACT.[4]

Taxi Plate Numbers

2.3. Between November 1990 and July 1994 there were four taxi plate auctions involving the release of 28 plates with average prices rising from $132,000 in 1990 to $241,000 in 1994.

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[1] Audit report, p1

[2] ibid, p1 and debates of the Legislative Assembly for the ACT, 19 October 1995, p1877

[3] Audit report, p2

[4] ibid, pp3,20

2.4. The audit found that the ACT with 217 taxis has the second lowest number of taxis per head of population (ie one taxi for every 1374 people). This compares with Sydney which has one taxi for every 942 people. If the national average was applied to the ACT there would be 273 taxis, an increase on 56 on the current level. However, the audit noted that the large Comcar (Commonwealth) fleet in the ACT (48 permanent and 85 casual vehicles), needed to be taken into account and on that basis it seemed that the number of taxis in the ACT is not significantly out of line with national trends.[5]

Decision to Issue 15 Taxi Plates

2.5. The audit found that the decision to release 15 plates was based on comprehensive data and recommendations with the objective of increasing the availability of taxis . The generation of additional income for the ACT was not the prime purpose.[6]

2.6. Recommended plate release numbers were five (TIAC), 12 were proposed by the Canberra Taxi Proprietors' Association (CTPA), 13 by the Department of Urban Services (DUS) and 20 by the Office of Financial Management (OFM). The OFM considered that the price of taxi plates was excessively high relative to other capital city prices, DUS based its proposal on response times, employed persons and radio bookings, and CTPA sought a "catch up" of seven plates over and above the five recommended by the TIAC in order to meet public needs and demand before the next scheduled TIAC assessment.[7] The Government's decision also included the issue of a further 15 plates in each of the years 1996-97 and 1997-98.[8]

2.7. The audit concluded that, on the basis of documentary evidence and discussions with ACT Government officials, the decision to release 15 plates was made with comprehensive and accurate information, and that the generation of additional income for the ACT was not a prime purpose.[9]

The Auction Process

2.8. The audit noted that whereas in former years quotations were received from three auctioneers and the lowest bid accepted, for the 1995 auction seven auctioneers listed in the Yellow Pages of the ACT Telephone Directory were invited to submit flat fee quotations, with all overheads to be met by the Government. Two listed auctioneers were inadvertently missed by officials. As the expenditure was expected to be less than $2,000, the procedure conformed to ACT Government Purchasing Policy guidelines. However, the audit noted that there was no indication that the decision to specify a flat fee took account of value for money considerations in the guidelines.[10]

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[5] ibid, pp3,5-8
[6] ibid, p3
[7] ibid, pp9-15
[8] ibid, p14
[9] ibid
[10] ibid, pp16,17,19-21

2.9. Quotations ranged from $250 (from Harold Hird and Associates) to $950, and the lowest quotation was accepted.[11] Having regard to the former familial relationship of Mr Hird MLA with Harold Hird and Associates, and the political relationship between Mr Hird MLA and the Minister for Urban Services, the audit report stated that a thorough examination of all documentation relating to the calling of quotes, the recommendations made and the final selection decision; and discussions with responsible officials, there was no evidence that Mr Hird MLA or the Minister had any involvement or influence in the selection decision.[12]

2.10. The audit did note that an uninvited quote was submitted by Hyams, a Sydney based company with a Canberra representative. The Hyam's quote was received by the Minister's office on 29 September 1995, logged by the Department of Urban Services as received (from the Minister's Office) on 5 October 1995 and received by the auction contract officers on 11 October 1995. The contract was awarded on 9 October 1995.[13]

3. ADVICE ON GUIDELINES

3.1. In responding to the Chief Minister's request for advice on guidelines to assist Members of the Legislative Assembly and Government officials in dealing with matters such as were revealed by the taxi plate auction, the audit confined comment to the requirements of [non-executive] Members of the Legislative Assembly and public officials. The audit further noted that Ministers hold extremely wide discretionary powers and that a Code of Conduct for Ministers was promulgated in April 1995.[14]

3.2. The audit reviewed codes of conduct of various Australian jurisdictions and noted that the Queensland draft Codes for Elected Members and for Public Officials seem to provide the most useful guide.

3.3. Those draft Codes provide, inter alia, that:[15]

- official powers or position are not used improperly for personal advantage
- conflict between personal interests and public duty are resolved in favour of the public interest
- the potential for conflict between personal interests and the requirements of public duty are minimised

3.4. The audit noted that while it is impractical to completely extinguish the potential for conflict of interest situations, if these do arise and family members are involved, the

[11] ibid, p18
[12] ibid, p19
[13] ibid, pp21,22
[14] ibid, p25
[15] ibid,pp26-31

Queensland draft Codes make it clear that the public interest must be put before the interest of family in any activity of public duty.[16]

3.5. The audit also noted that the issue of commercial dealings with companies, partnerships or individuals who are partners of family members of Members of the Assembly can be addressed similarly to the issue of family interests generally, and observed that if the circumstances have the potential to create adverse perceptions that the public interest has not been treated as paramount, then the Member or official should sever any connection with the matter.[17]

Declarations

3.6. Where conflict situations arise, the audit proposed that Members or officials should be required to immediately declare the interest or relationship which gives rise to the conflict and that, for Members of the Legislative Assembly, the Assembly should decide to whom the declaration should be made. For officials, the audit proposed that a declaration be made to the relevant chief executive, and, for chief executives, a declaration be made to the relevant Minister.[18]

Use of Position to Gain Personal Benefit or Benefit for Others

3.7. The audit concluded that, as a matter of principle, the positions of Members of the Legislative Assembly and senior officials should not be availed of to advance the interests of any person related to a Member or official or any group, company, association, etc, in which the Member or official may have a pecuniary or personal interest. The audit advised that Members and senior officials should conscientiously avoid situations where this could occur or be perceived to occur.[19]

3.8. The audit recommended that the extracts from the Queensland draft Code of Conduct be utilised as a basis for developing guidelines for Members of the Legislative Assembly and public officials, but that a complete code of conduct cover a wider range of issues than those addressed by the audit.[20]

4. COMMITTEE APPROACH

4.1. The committee sought comment from the Chief Minister and from the Minister for Urban Services.

4.2. The Chief Minister advised that the audit report, and particularly those recommendations relating to the development of guidelines for Members of the Legislative Assembly and officials in relation to certain commercial dealings will be given close attention.

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[16] ibib, p29
[17] ibib
[18] ibid, p30
[19] ibid, p31
[20] ibid

The Chief Minister advised that a submission would be sent to the committee on this issue and the other matters relating to the release of taxi plates.[21]

4.3. The Minister for Urban Services subsequently provided the committee with a two part Action Plan which addressed the audit findings.[22]

Taxi Plate Auction

4.4. Action Plan - Part 1 advised that DUS is to adopt a more formal process for marketing taxi plates, involving newspaper advertisements inviting expressions of interest in developing a marketing plan for the next sale of plates. Particular attention will be given to ensuring that all interested auctioneers have access to auction requirements.

4.5. With regard to the audit finding that DUS did not give consideration to marketing methodology, Action Plan - Part 1 advised that amendment of the Motor Traffic Act 1936 will allow for the sale of short-term , non-transferable taxi plates . As part of that process, alternatives to auction will be considered, including tendering.

4.6. The committee was advised that as part of the more formal tender process for the future, the Government proposes to encourage creative tendering, including proposals for marketing plates. The committee was advised that DUS is to establish a marketing assessment committee to determine which marketing plans would maximise the return to the ACT.

4.7. With regard to delays in transmitting the Hyams proposal from the Minister's Office to DUS, Action Plan - Part 1 advised that the new arrangements should overcome the problem of proposals being incorrectly sent to the Minister, as happened with the Hyams proposal.

Guidelines

4.8. Action Plan - Part 2 advised that the relatively small ACT population meant that potential conflicts of interest will continue to be inevitable for Members of the Legislative Assembly and senior officials, but observed that accountability mechanisms are already in place, including the Auditor-General and an effective Assembly committee system. Further, most public officials are subject to a legislative code of conduct under the Public Sector Management Act 1994.

4.9. With regard to Members of the Legislative Assembly, Action Plan - Part 2 advised that the Government supports the development of a Code of Conduct and that the Attorney-General will refer the matter to the Speaker of the Assembly for consideration, including the question of Members accepting gifts, and the application of section 14 of the Australian Capital Territory (Self-Government) Act 1988.

4.10. Action Plan - Part 2 advised that a review of the Code of Conduct for Ministers will be contingent upon the finalisation of the code for Members. The code for Members will also

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[21] Chief Minister, letter dated 26 April 1996 to the committee

[22] Minister for Urban Services, letter received 3 July 1996 by committee

give consideration to persons employed under the Legislative Assembly (Members' Staff) Act 1989 as such persons are in a position to influence decision making.

4.11. With regard to public officials, Action Plan - Part 2 advised that the Government is hoping to build on the existing legal framework that proscribes the obligations of ACT public servants. These officers are subject to the Public Sector Management Act 1994 and associated Standards, in particular Standard 4 which deals with ethics.

4.12. The committee was advised that the Government will develop guidelines for dealing with businesses associated with Members of the Legislative Assembly that will stress the importance of impartial decision making.

4.13. Action Plan - Part 2 also advised that a code of conduct will be issued for statutory office holders but noted that depending upon the degree of autonomy of individual statutory offices, legislative amendment may be necessary.

5. CONCLUSIONS AND RECOMMENDATIONS

5.1. The committee notes the Ministerial responses to the audit findings in relation to the processes followed in the 1995 taxi plate auction, and is satisfied that the proposals for future plate releases should ensure a more equitable and cost-effective basis for marketing taxi plates.

5.2. With regard to guidelines for Members of the Legislative Assembly and senior officials, the committee notes the Government's intentions in relation to a code of conduct for Members of the Legislative Assembly, guidelines for officials in dealing with businesses associated with Members of the Assembly, the position of Members staff and a code for statutory office holders. However, the committee would wish to see these matters progressed without undue delay.

5.3. Accordingly, the committee recommends that the Government:

(i) develop, and at an early date submit to the Speaker of the Assembly for consideration by the Standing Committee on Administration and Procedure, a draft code of conduct for Members of the Legislative Assembly when dealing with matters which may affect, or be influenced by, family connections and commercial relations with companies and individuals who are partners of family members of Members of the Assembly;

(ii) include in the draft code of conduct for Members of the Assembly provisions relating to Members staff employed under the Legislative Assembly (Members Staff) Act 1989);

(iii) develop, and present to the Assembly at an early date, guidelines for Government officials in dealing with businesses associated with Members of the Assembly; and

(iv) develop, as appropriate, and present to the Assembly at an early date, a code of conduct for statutory office holders in relation to their dealings with businesses associated with Members of the Assembly.

Bill Wood

Bill Wood MLA
Chair
26.8.96