ACT GOVERNMENT SUBMISSION
To the inquiry by the
Standing Committee on Public Accounts into

Review of Auditor-General's Report No. 1, 2006– Regulation of Charitable Collections and Incorporated Associations

October 2006

Authorised by
Mr Simon Corbell MLA
Attorney General

INTRODUCTION

The Auditor-General's Report No. 1, 2006– Regulation of Charitable Collections and Incorporated Associations presents the results of a performance audit that reviewed the regulation of charitable collections and incorporated associations in the ACT. The Report made a total of eight recommendations. Recommendations 1 to 5 were made in relation to the regulation of charitable collections. Recommendations 6 to 8 were made in relation to incorporated associations.

The issues identified, which in the opinion of the Auditor-General need to be addressed, are the subject of the future action recommendations detailed below:

AUDIT RECOMMENDATIONS

Recommendation 1. The Department of Urban Services (DUS) should expedite negotiations with the Department of Justice and Community Safety (JACS) on the transfer of the charitable collections function, as JACS is a more appropriate Department to administer this function.

Government Position

Agreed

The Government supports this recommendation. The function has been transferred to the Office of Regulatory Services within JACS since October 2006 and the Administrative Arrangements will be amended to reflect these changed arrangements.

Recommendation 2. The Department of Urban Services should conduct a risk analysis of charitable collections activity in the ACT and institute an effective monitoring and reviewing regime in response to the risks identified.

Government Position

Agreed

The Government supports this recommendation. JACS has well-developed skills in consumer protection activity and it is believed that it is better placed to identify and manage the risks.

The implementation of Recommendation 2 will be progressed as JACS takes responsibility for administering the charitable collections function.

Recommendation 3. The Department of Urban Services should prepare formal guidelines detailing the process used to decide whether a charitable collection meets the requirements of the Act prior to issuing the licence.

Government Position

Agreed

While there are no formal provisions requiring preparation of guidelines for issuing licenses under the Act or Regulations, the Government supports the recommendation.

In June 2006, DUS completed work preparing administrative guidelines for officers detailing the process for deciding whether a charitable collection meets the requirements of the Act prior to issuing a licence.

Recommendation 4. The Department of Urban Services should review the current threshold for collections requiring a licence, and consider options that include extending the need for licensing (if not reporting) to include charitable collections under $15,000.

Government Position

Agreed

The Government supports the proposal in the recommendation to review the current threshold.

The Department of Urban Services has reviewed the current threshold for collections requiring a licence, however it considered that the option of removing the current threshold of $15,000 from annual proceeds for collections requiring a licence would significantly increase the resources needed to process license applications. The licensing threshold of $15,000 and above reduces the resources needed to process license applications and enables regulatory focus on the major charities and charitable organisations operating in the ACT.

Recommendation 5. The Department of Urban Services should ensure the current database of collections licenses is accurate and ensure the public record is consistent with the database.

Government Position

Agreed

The Government supports the recommendation. License applications, renewals and cancellations are being progressed to ensure the current database of collections licenses is accurate and the online public record is consistent with the database.

Recommendation 6. The Registrar-General's office should ensure there is a documented process on complaints about the operation of Incorporated Associations to ensure that any valid concerns raised are reviewed and action taken.

Government Position

Agreed

The Government supports the recommendation and the Registrar-General's response that the Office will maintain a file relating to administrative actions taken in response to complaints about associations.

Recommendation 7. The Registrar-General's Office should consider conducting random checking of annual returns to ensure associations have their annual accounts audited as required by the Act.

Government Position

Agreed

The Government supports the recommendation and notes that the Registrar-General will initiate random checks to monitor compliance with the auditor qualification requirements.

Recommendation 8. The Registrar-General's Office should consider following up with larger associations if they do not comply with the requirement to submit annual returns in the intervening three years prior to cancellation.

Government Position

Not Agreed

The Government agrees with the Registrar-General's response to this recommendation. While the Associations Incorporation Act 1991 requires incorporated associations to lodge annual returns at the end of each financial year, generally it would be wasteful of resources to initiate prosecution action where an association fails to do so. A more effective sanction is the cancellation of incorporation where an association fails to lodge annual returns for three consecutive years.