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**THE LEGISLATIVE ASSEMBLY FOR
THE AUSTRALIAN CAPITAL TERRITORY**

GOVERNMENT RESPONSE TO

THE STANDING COMMITTEE ON PUBLIC ACCOUNTS REPORT No. 23:

REVIEW OF AUDITOR-GENERAL'S REPORT No. 7 of 2015 – SALE OF ACTTAB

**Presented by
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Government Response to the Public Accounts Committee Report on the Auditor-General’s Performance Audit into the Sale of ACTTAB

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Introduction/Background

On 26 June 2015, the ACT Auditor-General's Office released its performance audit into the Sale of ACTTAB in 2014.

The object of the Audit was to provide an independent opinion to the Legislative Assembly on the probity of the sale of ACTTAB, including whether there was appropriate consideration and analysis of the bids received from potential purchasers against all relevant legislative, policy, financial and other requirements or factors.

The Report made only one recommendation, which the Government noted.

The Legislative Assembly subsequently referred the Report to the Standing Committee on Public Accounts for examination. The Government provided a response and the Standing Committee did not carry out a formal hearing into the Report.

Following their review of the Auditor-General's report the Standing Committee on Public Accounts released its report on the Auditor-General's Report on 16 February 2016.

The Standing Committee's report contains four recommendations and the Government is required to provide a response within three months.

The Government notes each recommendation involves procedures and processes that are fundamental to ensuring integrity in government decision-making processes. As such they should be routinely applied and reviewed by all governments with the aim of creating an environment in which these standard requirements are understood and accepted by government officials.

The challenge for any government is to get the roles and administrative processes right in terms of sensible administration.

This requires considered judgement as to where the balance lies between compliance and the need to operate effectively to avoid unnecessary costs and administrative inefficiencies.

There is no doubt sound practices should be systematically encouraged by providing practical guidance and through formal processes. However, they should not be insisted upon in such a way as to be overly bureaucratic or counterproductive.

The Audit Report on the ACTTAB sale provides a case in point.

The Audit Report maintained the sale should have been structured and managed strictly in accordance with the requirements of the *Government Procurement Act 2001*.

This is despite legal advice obtained before the sale commenced indicating the *Government Procurement Act 2001* did not apply.

Managing the ACTTAB sale separately from the specific requirements of the *Government Procurement Act 2001* is consistent with the sale of government businesses in other jurisdictions.

Notwithstanding the sale was not a procurement, it was conducted in a manner consistent with the procurement principle to pursue value for money as prescribed under the *Government Procurement Act*.

The sale was framed around a dedicated probity plan and a formal set of sale objectives that were used as points of reference throughout the sale process. A Steering Committee and Project Team, supported by specialist advisers, were established. A flexible sale strategy was adopted to encourage bidders to submit proposals on terms they considered would be attractive and beneficial to the Territory. Proposals from proponents were evaluated in accordance with approved and documented criteria. During the course of the sale a large number of documents were prepared extending to several thousand pages.

The Audit Report confirmed that all the sale objectives were met successfully and the sale price of \$105.5 million far exceeded expectations.

The Government Response to each of the four recommendations of the Standing Committee is provided below.

Government Position on Recommendations

Recommendation 1

3.8 The Committee recommends that the ACT Government should ensure that all future procurement action conforms appropriately with risk management, evaluation criteria, probity, and documentation and record-keeping requirements as specified in recommendation one of Auditor-General's report No.7 of 2015: *Sale of ACTTAB*.

Government Response - Noted.

The Government does not accept the implication in this recommendation that the ACTTAB sale was a procurement.

As part of continuous improvement, procurement processes are regularly reviewed in consultation with stakeholders and the separate components of the recommendation are already incorporated in current procedures. CMTEDD is reviewing the existing procurement policies, procedures and processes. It will consider potential changes to remove any doubt about their applicability or potential exemption in particular circumstances while continuing

to allow flexibility to structure transactions to meet the needs of the market, maintain market interest and ensure that value for money is optimised.

Recommendation 2

3.13 The Committee recommends that ACT Government directorates and agencies should ensure recordkeeping procedures and guidance material address the business activities specific to their operations.

Government Response - Noted.

The *Territory Records Act 2002* requires directorates and agencies to have in place a Records Management Program that sets out their policies, procedures and other arrangements for managing the records of their business activities and complying with the Act. The Territory Records Office provides a model records management program which can help directorates and agencies to develop their own programs. It is expected that agencies will adapt the model program to reflect their own business activities and recordkeeping requirements.

The Territory Records Office is currently reviewing its suite of standards for records management, including its standard for producing records management programs. Compliance with these standards is mandatory for all directorates and agencies that are subject to the Act.

Recommendation 3

3.14 The Committee recommends that the ACT Government should remind all directorates and agencies of the importance of good records management to the functioning of the ACT Public Service.

Government Response - Noted.

The Territory Records Office provides a range of advice, guidance and tools to help directorates and agencies to meet their responsibilities under the *Territory Records Act 2002*. The Act emphasises that records are required to support open and accountable government and the management and operation of Territory agencies.

Directorates use a range of techniques to inform staff about the importance of recordkeeping, such as discussion in team meetings, staff induction and other training, and online information resources. To support directorates and agencies the

Territory Records Office convenes the Records and Information Management Community of Practice. This group provides an avenue for records managers and others with an interest in records and information governance to share ideas and work towards shared solutions to common issues.

Recommendation 4

3.15 The Committee recommends that the ACT Government should remind all ACT Public Servants of their obligation to ensure that accurate records of key decisions, discussions and events are kept and that these records are easily retrievable when required.

Government Response - Noted.

The *Territory Records Act 2002* requires that an agency must make and keep full and accurate records of its activities and take the steps necessary to ensure that the information in its records continues to be accessible in accordance with the *Freedom of Information Act 1989* and the *Territory Records Act*.

The Territory Records Office's standards for records management emphasise that all ACT Public Servants have responsibilities in relation to the records of the function they perform. They must make accurate records of their activities, ensure that such records are incorporated into the agency's recordkeeping system and comply with all records management procedures.

The Territory Records Office is currently leading a project to establish demonstrator sites for digital recordkeeping in a Whole of Government framework. The project will inform governance for digital recordkeeping across government, establish a standard configuration of records management software, making interoperability and information sharing across government more efficient, and demonstrate available efficiencies to inform decisions about broader deployment of the system. Increased use of such systems can improve the ability of public servants to create and keep easily retrievable records of key decisions, discussions and events.

