



PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

SEVENTY-FOURTH REPORT TO THE PARLIAMENT

**REPORT ON THE APPOINTMENT OF A PERSON TO
CONDUCT THE FINANCIAL AUDIT OF THE
VICTORIAN AUDITOR-GENERAL'S OFFICE**

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Parliament of Victoria

Public Accounts and Estimates Committee

*Report on the Appointment of a person to conduct the
financial audit of the Victorian Auditor-General's Office*

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PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE MEMBERSHIP – 56TH PARLIAMENT

Bob Stensholt, MP (Chair)

Kim Wells, MP (Deputy Chair)

Greg Barber, MLC

Richard Dalla-Riva, MLC

Judith Graley, MP

Janice Munt, MP

Martin Pakula, MLC

Gordon Rich-Phillips, MLC

Robin Scott, MP

Bill Sykes, MP

This inquiry was undertaken by a Sub-Committee consisting of the following members:

Bob Stensholt, MP (Chair)

Kim Wells, MP (Deputy Chair)

Richard Dalla-Riva, MLC

Janice Munt, MP

For this inquiry, the Committee was supported by a secretariat comprising:

Manager, Joint Committee Administration Office: Mark Roberts

Director, Organisation Development and Finance
Department of Parliamentary Services: Peter Lochert

Office Manager: Karen Taylor

DUTIES OF THE COMMITTEE

The Public Accounts and Estimates Committee is a joint parliamentary committee constituted under the *Parliamentary Committees Act 2003*.

The Committee comprises ten Members of Parliament drawn from both Houses of Parliament.

The Committee carries out investigations and reports to Parliament on matters associated with the financial management of the state. Its functions under the Act are to inquire into, consider and report to the Parliament on:

- any proposal, matter or thing concerned with public administration or public sector finances; and
- the annual estimates or receipts and payments and other Budget Papers and any supplementary estimates of receipts or payments presented to the Assembly and the Council.

The Committee also has a number of statutory responsibilities in relation to the Office of the Auditor-General. The Committee is required to:

- recommend the appointment of the Auditor-General and the independent performance and financial auditors to review the Victorian Auditor-General's Office;
- consider the budget estimates for the Victorian Auditor-General's Office;
- review the Auditor-General's draft annual plan and, if necessary, provide comments on the plan to the Auditor-General prior to its finalisation and tabling in Parliament;
- have a consultative role in determining the objectives and scope of performance audits by the Auditor-General and identifying any other particular issues that need to be addressed;
- have a consultative role in determining performance audit priorities; and
- exempt, if ever deemed necessary, the Auditor-General from legislative requirements applicable to Government agencies on staff employment conditions and financial reporting practices.

CHAPTER 1: INTRODUCTION

1.1 Legislative requirements

Pursuant to section 17 of the *Audit Act 1994*, as amended, the Public Accounts and Estimates Committee is required to recommend to the Parliament the appointment of an independent person to conduct:

- an annual financial audit of the Victorian Auditor-General's Office.

The relevant sections of the *Audit Act 1994*, as amended, are attached as Appendix 1.

1.2 Selection process

On 27 April 2007, the Committee sought submissions by tender by advertising in *The Australian Financial Review* and, on 28 April 2007, in *The Age* and *The Australian* newspapers. The Committee also wrote to various major accounting and consulting firms, inviting tenders.

On 16 April 2007, the Committee appointed the following Members to a Sub-Committee to review the tender proposals:

Bob Stensholt, MP (Chair)

Kim Wells, MP (Deputy Chair)

Richard Dalla-Riva, MLC

Janice Munt, MP

The Committee received two tenders for the financial audit.

Mr Peter Lochert, Director, Organisation Development and Finance, Department of Parliamentary Services and Mr Mark Roberts, Manager, Joint Committee Administration Office assisted the Chair with the analysis of the tenders received. This analysis was then evaluated by Members of the Sub-Committee.

CHAPTER 2: FINANCIAL AUDIT

2.1 Background

Section 17 of the *Audit Act 1994*, as amended, provides in part that:

- (1) *A person may be appointed by resolution of the Legislative Council and the Legislative Assembly, on the recommendation of the Parliamentary Committee of the Parliament,¹ as an independent auditor of the Victorian Auditor-General's Office.*
- (2) *An appointment –*
 - (a) *must not be made for a period exceeding 3 years, but may be renewed; and*
 - (b) *may provide for the payment of remuneration.*
- (3) *Remuneration payable under the appointment shall be paid out of the Consolidated Fund which is to the necessary extent appropriated accordingly.*
- (4) *The function of the independent auditor is to carry out audits of the Victorian Auditor-General's Office in accordance with this Part.*

Sections 17 and 18 do not explicitly state what the audit comprises. The *Audit Act 1994* defines an audit as including an examination and inspection. The audit is intended to comprise an audit of the financial statements of the Victorian Auditor-General's Office and this is the basis on which the Committee has made a recommendation.

2.2 Previous arrangements

Since 2004, Mr Terry Benfold, a partner of Pitcher Partners, has undertaken the financial audit of the Victorian Auditor-General's Office.

2.3 Financial auditor's role

The independent auditor's role will be to:

- conduct an audit of the Victorian Auditor-General's financial statements for the year ended 30 June 2007;
- form an opinion as to whether the financial statements of the Victorian Auditor-General's Office present fairly the financial position of the Office as at 30 June 2007 and the results of its operations and its cash flows for the financial year ended on that date in accordance with accounting standards and other mandatory professional reporting requirements and comply with the requirements of the *Financial Management Act 1994*, as amended; and
- conduct the audit in compliance with the *Audit Act 1994*, as amended, Australian auditing standards and professional reporting requirements.

¹ In Section 3 of the *Audit Act* 'Parliamentary Committee' is defined as the Public Accounts and Estimates Committee

APPENDIX 1: EXTRACT FROM THE *AUDIT ACT 1994,* AS AMENDED

17. *Independent auditor to audit Victorian Auditor-General's Office*

- (1) A person may be appointed by resolution of the Legislative Council and Legislative Assembly, on the recommendation of the Parliamentary Committee² as an independent auditor of the Victorian Auditor-General's Office.
- (2) An appointment –
 - (a) must not be made for a period exceeding 3 years, but may be renewed; and
 - (b) may provide for the payment of remuneration.
- (3) Remuneration payable under the appointment shall be paid out of the Consolidated Fund which is to the necessary extent appropriated accordingly.
- (4) The function of the independent auditor is to carry out audits of the Victorian Auditor-General's Office in accordance with this Part.
- (5) Subject to any directions given by the Parliamentary Committee, sections 11, 12 and 14 apply in relation to the independent auditor as if references in those sections to the Auditor-General were references to the independent auditor.

18. *Report of independent auditor*

- (1) The independent auditor may make a report on an audit carried out under section 17.
- (2) A report under sub-section (1) may include such information and such recommendations as the independent auditor thinks fit for the more effective, efficient and economic operation of the Victorian Auditor-General's Office.
- (3) The independent auditor must not make a report of an audit under this section unless –
 - (a) at least 10 business days before making the report, the independent auditor –
 - (i) has given the Auditor-General a copy of the report or a summary of the findings and proposed recommendations; and
 - (ii) has, in writing, asked the Auditor-General for submissions or comments before a specified date, being at least 5 business days after the report is given to the Auditor-General;
 - (b) has included in the report any submissions or comment received, before the specified date, from the Auditor-General or a summary, in an agreed form, of any such submissions or comment.
- (4) The independent auditor must, within 7 sitting days after making the report, transmit the report to each House of Parliament.

² In Section 3 of the Audit Act 'Parliamentary Committee' is defined as the Public Accounts and Estimates Committee

APPENDIX 2: APPOINTMENT AND REMUNERATION OF AN AUDITOR PURSUANT TO SECTION 17 OF THE *AUDIT ACT 1994*, AS AMENDED, AS RECOMMENDED BY THE PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Whereas

- A. An independent auditor shall carry out audits of the Victorian Auditor-General's Office in accordance with sections 17 and 18 of the *Audit Act 1994*, as amended.
- B. Mr Terry Benfold of Pitcher Partners is appointed by resolution of the Legislative Council and the Legislative Assembly, on the recommendation of the Public Accounts and Estimates Committee of the Parliament, to conduct the audit.

Definitions

- 1. In this document unless otherwise specified or unless the context otherwise requires:
 - 1.1 'Act' means the *Audit Act 1994*, as amended.
 - 1.2 'Committee' means the Public Accounts and Estimates Committee.
 - 1.3 'Liaison Officer' means the Executive Officer of the Committee.
 - 1.4 'Auditor' means Mr Terry Benfold.
 - 1.5 'Audit' means an audit as described in sections 17 and 18 of the *Audit Act 1994*, as amended.
 - 1.6 'Office' means the Victorian Auditor-General's Office.

Appointment

- 2. The Auditor shall:
 - 2.1 conduct an independent audit of the Office, being an audit of the Office's financial statements, for the years ended 30 June 2007, 2008 and 2009;
 - 2.2 form an opinion as to whether the financial statements of the Office present fairly the financial position of the Office as at 30 June 2007, 2008 and 2009 and the results of its operations and its cash flows for the financial years ended on those dates in accordance with applicable accounting standards and other mandatory professional reporting requirements and comply with the requirements of the *Financial Management Act 1994*, as amended;
 - 2.3 furnish his opinion (refer part 2.2) to the Committee for inclusion with the Office's annual report to the Parliament under the provisions of the *Financial Management Act 1994*, as amended;

- 2.4 conduct the audit in compliance with the *Audit Act 1994*, as amended; and
- 2.5 conduct the audit in compliance with relevant Australian Auditing Standards and professional statements.
3. Section 18 of the Act provides that the Auditor may make a report. The Auditor must, within seven sitting days after making a report in accordance with the Act, transmit the report to the Legislative Assembly and the Legislative Council.
4. The Auditor shall liaise with the Liaison Officer as reasonably required by the Liaison Officer during the period of the audit.
5. All documents (other than working papers) prepared pursuant to the audit and all documents supplied to the Auditor for the purpose of the audit (excluding those documents returned to the originating source) shall be and remain the property of the Victorian Parliament and shall be delivered by the Auditor to the Committee upon the completion of the audit. The Committee will keep the documents delivered by the Auditor to the Committee for a period of at least seven years and provide the Auditor, or his representative, with access to such documents as is appropriate.

All working papers are to be made available to future Auditors.

The documents supplied to the Auditor pursuant to the audit shall not without the prior approval of the Committee be used, copied or reproduced for any purpose other than for the execution of the work contained in the audit.

6. The Auditor shall not without the prior written approval of the Committee disclose to any person any material obtained or produced during the course of the audit.
7. The Auditor warrants that, at the date of this document, no conflict of interest exists or is likely to arise in the performance of his obligations under the audit. If, during the term of the audit, a conflict or risk of conflict of interest arises, the Auditor undertakes to notify the Committee immediately in writing of that conflict or risk.
8. Pursuant to section 17 of the Act, sections 11, 12 and 14 of the Act apply to the Auditor as if references in those sections to the Auditor-General were references to the Auditor.
9. Copyright of all documents developed or produced by the Auditor pursuant to the audit shall vest in the Crown in right of the State of Victoria.
10. The Auditor is an independent contractor and the personnel employed or engaged by him shall not by virtue of this document become or be deemed to have become employed by or in the service of the State for the purpose of the Income Tax or Income Tax Assessment Acts and the Accident Compensation Act or for any other purpose.
11. The Auditor releases and shall indemnify the State, its officers and employees from and against liability for or in respect of any physical injury to persons (including death) or damage to property in so far as the injury or damage is attributable to any negligent or unlawful action of the Auditor in the course of carrying out the audit.
12. If either the Committee or the Auditor is rendered unable to carry out the whole or any part of this audit by any reason beyond its control including, but not limited to, acts of God, acts of governments or governmental authorities, strikes or riots and any other causes of like nature, then the performance of such obligations as are effected by such cause, shall be excused during the continuance or any inability, so caused. Save that this part shall not excuse the State from its obligations to pay fees to the Auditor as they become due.
13. If any provision of this document is held invalid, unenforceable, or illegal for any reason, this document remains otherwise in full force, apart from such provision which is deemed deleted.

14. By resolution of the Legislative Council and the Legislative Assembly, on the recommendation of the Committee, the Legislative Council and the Legislative Assembly at any time giving written notice to the Auditor of its intention so to do may abrogate or constrict this audit or any part of or further part thereof and upon such notice being given the Auditor shall cease or reduce work according to the notice and shall forthwith do everything possible to mitigate the losses consequent thereto.

In the event the Auditor may submit a claim for compensation for such sums as are fair and reasonable in respect of the loss or damage sustained by the Auditor in unavoidable circumstances provided always the Auditor shall not be entitled for the loss of prospective profits.

Remuneration

15. The amount to be paid to the Auditor for all work done in undertaking the 2006-07 audit shall be \$27,500, exclusive of GST and disbursements. This amount shall be paid on transmission of the financial statements of the Office for the year ended 30 June 2007, including a report of the Auditor detailing his opinion on those financial statements, to the Legislative Assembly and the Legislative Council or, if earlier, on transmission of the Auditor's report to the Legislative Assembly and the Legislative Council.
16. The Auditor warrants to meet all expenses incurred during the audit without any further recourse to the Parliament of Victoria.
17. The level of remuneration for the financial audits undertaken for 2007-08 and 2008-09 shall be negotiated with the Committee.

APPENDIX 3: ORGANISATIONS SUBMITTING PROPOSALS FOR FINANCIAL AUDIT

PKF Chartered Accountants

Pitcher Partners

