

May 24, 2010

Mr Bob Stensholt MP
Chair
Public Accounts and Estimates Committee
Parliament of Victoria
Parliament House
Spring Street
EAST MELBOURNE VIC 3002

Dear Chair

Public Accounts and Estimates Committee Inquiry into Victoria's Audit Act

Thank you for your letter of 9 April 2010 regarding the Public Accounts and Estimates Committee Inquiry into Victoria's Audit Act and your invitation for Infrastructure Partnerships Australia (IPA) to make a written submission on one particular aspect of your inquiry, that is, the desirability or otherwise of assigning the Auditor General an explicit legal right of access to the premises and records of private sector contractors engaged in the delivery of public projects or services.

As the nation's peak infrastructure organisation, IPA is pleased to contribute its views on this issue. By way of background, IPA represents Australia's most senior business leaders and public sector executives from across the infrastructure sector. IPA is the only body which brings together the public and private sectors in a spirit of partnership, to build Australia together.

IPA recognises the important role of the independent Auditor General in ensuring transparency and accountability of government expenditure. The role is crucial to ensure public programs and services deliver value for money outcomes for taxpayers. Transparency and accountability of government expenditure is also necessary to ensure public confidence that it is operating in the best interests of its citizens.

IPA also commends the Public Accounts and Estimates Committee for its timely review and update of the Audit Act and ensure it reflects modern government.

In addressing the fundamental issue in your letter, it is recognised that the thrust of the questions around private sector contractors are associated with the most evolved form of private sector involvement in the delivery of public infrastructure, that is, Public Private Partnerships (PPPs).

It is IPA's view there is no fundamental accountability justification for the Audit Act to assign an explicit authority for the Auditor General to access the premises and records of private sector contractors engaged in the delivery of major public projects or services. This view is based primarily on the fact that the Auditor General already has substantial powers under the Audit Act with respect to non-government entities receiving government funds and access to persons, documents and other information, and because PPPs are already subject to a substantial degree of transparency and accountability.

Current powers of the Victorian Auditor General

With respect to the powers of the Auditor-General, IPA considers there is already sufficient capacity for the Auditor General to assess whether private sector involvement in infrastructure delivery is delivering value for money for the taxpayer. Considering the objectives of the Audit Act 2004, part 3A (1)(c) explicitly states one of the objectives being:

to determine whether financial benefits given by the State or an authority to non-government bodies are being applied economically, efficiently and effectively for the purposes for which they were given;

In addition, Sections 11 and 12 of the Audit Act 2004 also provide the Auditor-General with wide ranging powers relating to access to persons, documents and information. None of this would exclude contractors involved in the delivery of public infrastructure.

If it is accepted that the powers already exist to allow the Auditor General access to the premises and records of private sector contractors engaged in the delivery of public projects or services, then the question is why should there be an explicit right of access written in to the Audit Act. This question suggests there is something particular about privately financed projects requiring greater scrutiny than more traditional procurement methods. IPA rejects this suggestion.

Transparency and accountability

The creation of Partnerships Victoria in 2000 was a clear indication the Government was committed to putting a framework around PPPs, establish best practice and provide further clarity and transparency around their workings. As a result Victoria not only leads the country in the use of PPPs but, along with the UK, the world. Following the 2004 Review of *Partnerships Victoria Provided Infrastructure*¹, conducted by Peter Fitzgerald, which revealed substantial oversight of PPP projects by the Auditor-General, further significant changes were made to the Partnerships Victoria Guidelines to improve transparency and accountability.

It is IPA's view that Partnerships Victoria has gone to considerable lengths to provide a high degree of transparency for their PPP projects. As stated on the Partnerships Victoria website "PPP projects are subject to the same whole of government openness and disclosure policies such as Freedom of Information requirements and contract publishing

¹ Review of *Partnerships Victoria Provided Infrastructure*, Final Report to the Treasurer, January 2004 Peter Fitzgerald

requirements.” And further, it is stated that the Auditor-General has “full and complete access as required to information on any Victorian PPP project”.

Partnerships Victoria guidelines contain very clear requirements relating to disclosure during the entire PPP process. This includes publishing of the executed contract on the Contracts website within three months of financial close and tabling of the project summary in Parliament at the time of its release, to be updated if any significant changes are made to the nature of the project post-release. These kinds of measures go well beyond the level of scrutiny offered by other procurement methods.

Value for money - private financing

There is a substantial body of evidence to support the role of the PPP as one of a suite of valid procurement options available to government on a fit for project basis. Partnerships Victoria projects represent about 10 per cent of the total infrastructure investment and sit alongside more conventional procurement options. Various studies of PPPs around the world, including Victoria have demonstrated the benefits of PPPs in terms of on-time, on-budget delivery, reduced construction and overall lifecycle costs, strong customer service orientation and outcome based value for money.

In 2003 the UK National Audit Office compared infrastructure projects procured via PPP against projects procured by other means. The study reported that 73 percent of non-PFI (PPP) construction projects were over budget and 70 percent were delivered late. In contrast, 20 percent of the PFI projects came in over budget and 24 percent were late.

In Australia, a 2007 IPA commissioned research paper looked at a sample of 21 PPP projects and 33 traditional projects. The study demonstrated that PPP projects were completed 3.4% ahead of time, whereas projects procured through the public sector conventional approach were completed 23.5% behind time. In addition, on a contracted \$4.9 billion of PPP projects the net cost over-run was \$58 million – not statistically different from zero, however for \$4.5 billion of traditional procurement projects, the net cost over-run amounted to \$673 million. Later, updated research conducted by the University of Melbourne found that in relation to expected cost and final cost outcomes, PPPs performed 31% better than traditional projects.

The 2004 Fitzgerald study of the Partnerships Victoria policy found strong evidence of the net benefits of PPPs, including that for the 8 PPP projects examined the weighted average savings was 9 per cent across all projects².

Conclusion

IPA appreciates the crucial role of the Independent Auditor General to ensure the Victorian taxpayer is receiving value for money for government expenditure on goods and services. The Public Accounts and Estimates Committee should also be commended for its commitment to review and update the Audit Act and the role of the Auditor General to ensure it is in keeping with the practices of modern government.

² Review of *Partnerships Victoria* Provided Infrastructure, Final Report to the Treasurer, January 2004 Peter Fitzgerald

Based on the current, extensive powers of the Auditor General with regard to accessing private contractors and the substantial measures already in place to ensure transparency around each PPP contract, IPA does not consider there is a justification for the creation of an explicit authority for the Auditor General to access the premises and records of private sector contractors engaged in the delivery of major public projects or services.

Yours sincerely

A handwritten signature in black ink, appearing to read 'B. Lyon', with a stylized flourish at the end.

**BRENDAN LYON | Executive Director
Infrastructure Partnerships Australia**