



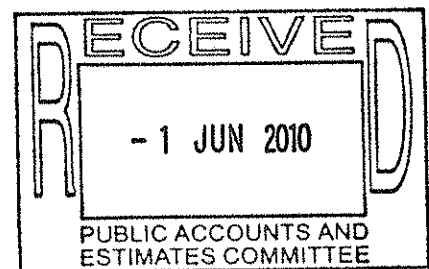
## Public Sector Standards Commissioner

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



Dear Mr Stensholt

### INQUIRY INTO THE AUDIT ACT 1994

I write in response to your letter dated 13 May 2010, requesting my views on a proposal contained in the Auditor-General's submission to the Public Accounts and Estimates Committee (PAEC) public hearing for the inquiry into Victoria's *Audit Act 1994*. The Auditor-General proposed that the Victorian Auditor-General's Office (VAGO) be constituted as a statutory authority. The Auditor-General's proposal is made on the basis that it would improve accountability and is consistent with emerging trends and better practice.

A 'statutory authority' is not defined in Victorian legislation. In general however, a statutory authority is a public entity created in legislation.

I understand that the Auditor-General's request may relate to a desire for alternate employment arrangements for VAGO staff. The Audit Act currently provides that VAGO is to be staffed by as many employees as are required for the performance of its functions. Section 7E of the Audit Act requires VAGO to be staffed by public servants employed under Part 3 of the *Public Administration Act 2004* (PAA). The Auditor-General also has the power to employ contractors to assist in any of his functions.

The Auditor-General's proposal to change employment arrangements for VAGO staff has a number of implications. These include implications for:

- industrial agreements;
- executive employment; and
- employee entitlements.

## 1. Industrial agreements

VAGO employees are currently employed under terms and conditions specified in the Victorian Public Service (VPS) Agreement 2006. If the Audit Act were amended such that the Auditor-General no longer employed staff under Part 3 of the PAA, the Auditor-General would likely establish a new industrial agreement. Nevertheless, VAGO would remain subject to the employment policies for the Victorian public sector.

## 2. Executive employment

The salary of the Auditor-General is determined by PAEC. The Auditor-General's office is subject to public service executive employment policy and therefore is required to meet an average performance bonus outcome annually. This is between five and seven per cent but is subject to variation depending on the Premier's determination of the portfolio's performance.

If the Auditor-General no longer employed staff under Part 3 of the PAA then the extent of applicability of public sector executive employment policy would need to be determined. Assuming PAEC continued to determine the Auditor-General's remuneration, his subordinate executive remuneration levels would be subject to Government Sector Executive Remuneration Panel (GSERP) policy. The transition from public service to public sector employment would mean:

- VAGO would no longer be subject to the executive employment number cap (VAGO reported 23 executives to the SSA as at 30 June 2009);
- the average outcome of executive performance bonus would be six per cent;
- tighter conditions on executive remuneration would include requirements that the salaries of executives reporting to the Auditor-General average 70 per cent of the Auditor-General's salary and that no executive's salary exceed 80 per cent of the Auditor-General's salary; and
- applications for exemptions to exceed GSERP salary or performance bonus policy are by convention referred to the Premier for approval. As the Auditor-General is an independent officer of Parliament, this may be inappropriate and any exemptions should be made to PAEC.

A further issue for consideration is the right of return provided to executives who were formerly public service non-executive employees prior to their appointment as executives (refer Section 27 of the PAA). The right of return is a valuable benefit intended to support the notion of a career public service. If the employment of executives in VAGO was removed from PAA coverage then executives who currently enjoy the right of return entitlement would need to be considered and a transition arrangement may need to be provided.

## 3. Employee entitlements

If VAGO employees were to be employed by a public sector statutory authority under a new Enterprise Agreement, the impact on non-executive mobility and employment entitlements would need to be considered.

Public service employees are readily able to move between employers because of the common terms and conditions of employment in the core VPS enterprise agreement. Mobility between service and sector employers is problematic due to the different employment and remuneration models contained in the various sector enterprise agreements. This may be seen to disadvantage current non-executive employees in the office.

#### 4. Conclusion

In general it seems that the benefits of moving to a public sector employment model as outlined by the Auditor-General are not clear and would seem to potentially adversely impact current staff. The benefits seem to be limited to some increased flexibility in executive employment numbers, and the capacity to establish an enterprise agreement independent of the core VPS agreement.

I trust that the information provided will be useful in informing the views of the PAEC in relation to the inquiry into the Audit Act.

Yours sincerely

A handwritten signature in black ink, appearing to read "Peter Allen". The signature is written in a cursive style with a large initial "P".

**PETER ALLEN**

Public Sector Standards Commissioner

28 / 5 /2010