



PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

82nd REPORT TO PARLIAMENT

**Review of the findings and
recommendations of the
Auditor-General's reports
tabled July 2006 - February 2007**

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Parliament of Victoria

Public Accounts and Estimates Committee

*Review of the findings and recommendations of the
Auditor-General's reports tabled July 2006 - February 2007*

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PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE MEMBERSHIP – 56TH PARLIAMENT

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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;
- 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; and
- any proposal, matter or thing that is relevant to its functions and has been referred to the Committee by resolution of the Council or the Assembly or by order of the Governor in Council published in the *Government Gazette*.

The Committee also has a number of statutory responsibilities in relation to the Victorian Auditor-General's Office. 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.

CHAIR'S FOREWORD

Under its functions and powers set out in sections 14 and 33 of the *Parliamentary Committees Act 2003*, the Public Accounts and Estimates Committee systematically follows up audit reports tabled in Parliament by the Auditor-General. The Committee prioritises these reports (as 'priority ones' and 'priority twos') using various criteria including considerations of the seriousness of impacts or implications of audit findings, public interest, risks, social impacts, materiality and opportunities to enhance accountability.

The Committee has programmed six-monthly follow-up reviews of Auditor-General reports in tranches. Follow-ups are specific to the findings and recommendations of the Auditor-General contained in these reports. The review process entails obtaining responses to Committee questionnaires from Department Secretaries, the Auditor-General and other relevant witnesses. Public submissions and public hearings with appropriate witnesses are conducted on 'priority one' reports.

For this first tranche, termed 'Round One', the Committee has conducted a review of Auditor-General reports tabled between July 2006-February 2007 inclusive, in relation to the following priority one reports:

- *Government Advertising (the review outcomes comprise Part A of this report);*
- *New Ticketing System Tender (Part B); and*
- *The Condition of Public Sector Residential Aged Care Facilities (Part C).*

Priority two review outcomes (comprising Part D) relate to four audits, *Delivering Regional Fast Rail Services*, the *Rail Gauge Standardisation Project* and the *Docklands Television and Film Studios* arising from the *Results of special audits and other investigations* tabled by the Auditor-General in August 2006 and *Vocational education and training: meeting the skill needs of the manufacturing industry* (tabled in July 2006).

Government Advertising

Spending on advertising and communication by governments has increased significantly since the 1970's and 1980's and is now viewed as an effective means of communicating information about government policies, programs and services and other matters which affect the obligations, rights and entitlements of members of the public.

While an incumbent government may be considered to have a natural advantage in having public funds at its disposal to promote its policies, programs and initiatives, contentions arise when publicly funded government publicity activities are perceived as providing a party-political advantage.

In September 2006, the Victorian Auditor-General tabled a report on *Government Advertising*. This performance audit examined changes in government practices and governance arrangements in the light of increased central co-ordination of government sponsored promotional activity. The Auditor-General selected and reviewed eight government advertising campaigns for compliance with government advertising guidelines and procurement policies.

The Committee examined actions taken by the government in response to the Auditor-General's report. The Committee also makes a number of recommendations in respect to various areas where it is of the view that further improvements are necessary to enhance the transparency and accountability of publicly funded government communication, advertising and promotional expenditure.

The Committee has been aided in its inquiry by evidentiary support from the Department of Premier and Cabinet, the Department of Treasury and Finance (DTF) and the Victorian Auditor-General's Office and I thank them for their advice and assistance.

New Ticketing System Tender

The New Ticketing System (NTS) Tender audit report was presented by the Auditor-General to Parliament in October 2007. The report deals with management by the Transport Ticketing Authority (the Authority) of a tender for the provision and implementation of a smartcard ticketing system for Melbourne's public transport network.

The Committee's review has included:

- follow-up correspondence with the Authority, the DTF and the former Department of Infrastructure on action taken in response to the audit findings and recommendations in the period since the release of the Auditor-General's report; and
- the gathering of evidence from relevant parties at public hearings to further explore issues arising from the audit findings and recommendations.

The Auditor-General reported favourably to Parliament on most aspects of the Authority's management of the NTS tender, including its handling of key probity issues such as conflicts of interest.

In evidence provided to the Committee, the Auditor-General advised that the principal impetus for the audit of the NTS tender was a series of allegations about the conduct of the tender process that were made by certain parties during an audit investigation of an alleged leak of confidential information around the time of the Authority's announcement of the successful tenderer. Drawing on media articles published several months after the tabling of the audit report alleging key material had been removed from a draft of the report, the Auditor-General presented to the Committee evidential documents on 12 specific items which were the subject of the media attention. This presentation provided valuable clarification of the processes followed by the Auditor-General in determining the substantiation or otherwise of the underlying media claims. After careful consideration of this material, the Committee accepts the respective decisions reached by the Auditor-General.

The Committee considers that the normative commentary on tendering processes in the Auditor-General's report, and a good practice guide issued at the time of the report, should be mandatory reference sources for all public sector organisations planning to manage large and complex tender projects likely to adopt innovative and interactive approaches similar to the NTS tender.

The Committee recommends implementation by DTF, as the responsible central agency, of most actions advocated by the Auditor-General. It considers that DTF can readily respond to these actions as part of its ongoing process of continually improving the existing guidance material.

The Committee also makes a number of recommendations for DTF to strengthen current government procurement, tender management and risk allocation guidelines for major tenders including the conduct and use of probity auditors and probity advisors and better articulation of risks to be borne by government.

On behalf of the Committee, I wish to thank the Auditor-General, and representatives of DTF, the Authority (including its NTS probity auditor) and the former Department of Infrastructure who provided written material to the Committee and participated in its public hearings.

The Condition of Public Sector Residential Aged Care Facilities

Australia, like other OECD countries, is experiencing an ageing of its population as average life spans increase and fertility rates decline. It is anticipated that the number of Australians aged 65-plus years will more than double over the next half-century. By 2021, the State Government anticipates an increase of 65 per cent in the number of Victorians over the age of 70 years. As such, residential aged care is an increasingly important component of the Australian health care system. It provides support to frail, elderly and others within the community who are no longer able to continue living at home. Residential aged care is a Commonwealth program which provides a certification and accreditation framework for service providers.

While aged care is the responsibility of the Commonwealth Government, which conducts direct dealings with service providers, 81 State instrumentalities operate 196 of residential aged care facilities, offering approximately 6,800 residential aged care places, the majority of which are in rural and regional Victoria.

In August 2006, the Auditor-General tabled a report on the *Condition of public sector residential aged care facilities*. The main focus of the report was on asset management in relation to these facilities and not the provision of aged care services per se.

The Committee acknowledges the significant contribution of \$420 million in funding by the State Government between 2000 and 2008 for capital works and upgrades aimed at improving the condition of public sector facilities.

The Committee's report also draws attention to areas where further improvement and action is required. The Committee makes a number of recommendations aimed at progressing further improvements in the management of public sector residential aged care facilities that are required from both the State and Commonwealth Governments if facilities are to be effectively maintained in accordance with current building standards and to ensure a quality service provision and maintain the State's significant capital investment.

The Committee has been aided in its inquiry by evidentiary support from the Department of Human Services and the Victorian Auditor-General's Office and I thank them for their assistance and advice.

Priority Two Follow-ups

The Committee reviewed responses received from Departments and the Auditor-General in relation to the progress of implementation of recommendations contained within the audit reports.

Delivering Regional Fast Rail Services and Rail Gauge Standardisation Project

The Committee notes that the buyback of the freight rail network from Pacific National has afforded greater opportunity for future State investment in rail gauge standardisation and related projects. The Committee is interested to also note that the Department of Transport has made concerted efforts via the implementation of a project management framework, guidelines, training and an overseeing committee to support effective project planning, management and delivery of projects. The Committee looks to the Department continuously reviewing and building on this framework.

Docklands Television and Film Studio

The Committee considers that given the size of the State's investment in the Docklands studio and independent advice from the State's commercial advisers that the developer may have difficulty in fully repaying the loan, the Department of Innovation, Industry and Regional Development (DIIRD) should undertake regular financial assessments and instigate appropriate timely action.

Further, the Committee recommends that as a matter of priority, the Auditor-General undertakes a follow-up audit of the State's investment in the Docklands studio.

Vocational education and training: meeting the skill needs of the manufacturing industry

The Committee takes heart that a number of the Auditor-General's recommendations have been accepted by the agencies concerned. The Committee has made a number of recommendations that are prospective and bridging in tenor, including forward, incremental and benchmarked three year plans to be instituted by the Victorian Skills Commission on a rolling basis, and the tracking and measurement by DIIRD of Vocational Educational and Training outcomes.

I commend this Report for positive consideration and implementation by the Government and look forward to the Government's response to the recommendations.

I thank my fellow colleagues on the Committee for their valuable participation in these reviews and their careful consideration of relevant issues.

Appreciation is also extended to the Committee's Secretariat for its competent research and administrative support during these extensive reviews.

The total cost of these 'Round One' reviews is approximately \$61,600.



Bob Stensholt, MP

Chair

RECOMMENDATIONS FOR GOVERNMENT ADVERTISING

Recommendation 1: Audits of government advertising and communications should be conducted as formal benchmarking reviews, examining a wide cross section of government communication activities and campaigns, in conformity with relevant audit standards.

Page 26

Recommendation 2: The Department of Treasury and Finance expand the annual reporting requirements of public sector agencies to include:

- (a) detailed reporting of expenditure under the MAMS contract; and
- (b) reporting of expenditure under specific advertising and communications campaigns, including:
 - (i) outcome of campaign against its objectives;
 - (ii) details of original budget;
 - (iii) any budgetary revisions;
 - (iv) actual expenditure; and
 - (v) explanations of significant variations between actual expenditure and budgeted expenditure.

Page 36

Recommendation 3: The Department of Premier and Cabinet finalise as soon as possible its proposal for Government reporting of advertising and communications expenditure by Victorian government entities under the MAMS contracts including any expenditure under the trust fund.

Page 43

- Recommendation 4:** **The Department of Premier and Cabinet should conclude its comprehensive review of the Guidelines for Victorian Government Advertising and Communications as a priority, with the aim of seeking the support of all political parties represented in Parliament.**
- Page 51**
-
- Recommendation 5:** **The Department of Premier and Cabinet undertake a review of their Communications website to ensure that the revised Guidelines for Victorian Government Advertising and Communications are given a prominent point of reference and links to the Guidelines appear adequately throughout the site.**
- Page 51**
-
- Recommendation 6:** **The Auditor-General consider including in its audit program a regular review (e.g. every 4 years) of government advertising and communications campaigns in excess of \$500,000, for compliance with all relevant public sector advertising policies and guidelines and to assess their effectiveness.**
- Page 58**
-
- Recommendation 7:** **The Department of Premier and Cabinet consider development of an advertising and communications policy for the State of Victoria which details the core values and principles underpinning public sector advertising and communications activities and outlines the roles and responsibilities of the various participants involved in the governance and decision making process.**
- Page 60**

Recommendation 8: The Department of Premier and Cabinet and all accredited purchasing units maintain their diligence over procurement practices to ensure that all relevant government procurement policies and guidelines are complied with to maintain due transparency, probity and value-for-money in the purchase of public sector advertising and marketing services.

Page 65

Recommendation 9: The Department of Treasury and Finance expand the external reporting obligations of government bodies for public sector advertising campaigns to incorporate an analysis of the effectiveness of advertising campaigns in achieving expected outcomes.

Page 70

Recommendation 10: While encouraging post-campaign evaluations for all advertising and communications projects, the Department of Premier and Cabinet consider revising the Victorian Government Communication Evaluation Guidelines to:

Page 70

- (a) specify a mandatory level at which post campaign evaluations must be undertaken; and
- (b) include a section on evaluating the efficiency and effectiveness of the media strategy or creative concepts chosen for the particular advertising or communication campaign.

RECOMMENDATIONS FOR NEW TICKETING SYSTEM TENDER

The Public Accounts and Estimates Committee recommends that:

Recommendation 1: The Department of Treasury and Finance ensure that the normative guidance on tender management incorporated in the Auditor-General's report and the supporting good practice guide be mandatory reference sources for tendering bodies planning major tender projects.

Page 76

Recommendation 2: The Auditor-General consider including information on the impetus for investigatory work in reports to Parliament, especially where the outcome of such work is a performance audit.

Page 79

Recommendation 3: The Treasurer write to all Boards of public entities recommending that their membership be at least half of the statutory limit at all times and be representative of a wide range of skills and perspectives, particularly when the entity is undertaking a major tender.

Page 83

Recommendation 4: The Department of Treasury and Finance amend procurement and tendering guidelines to preclude the combining of probity advisor and probity auditor roles in all major projects in the public sector

Page 85

- Recommendation 5:** **The Department of Treasury and Finance take action that makes use of the probity services panel mandatory for all public sector entities, and undertake regular reviews of the panel's membership.**
- Page 86**
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- Recommendation 6:** **The Department of Treasury and Finance widen application of procurement and tendering guidelines to encompass all major tenders managed by non departmental public bodies.**
- Page 87**
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- Recommendation 7:** **The Department of Treasury and Finance establish and adhere to biennial review dates for all guidance material pertaining to the management of major tenders.**
- Page 88**
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- Recommendation 8:** **The Department of Treasury and Finance ensure that lessons learnt from management experiences in major tenders in the public sector are adequately captured in its ongoing reviews of applicable guidelines.**
- Page 97**
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- Recommendation 9:** **The Department of Treasury and Finance ensure that updated risk allocation guidance for major projects adequately supports key decision making through articulation of potential risk levels to be borne by government, including their financial and non financial implications.**
- Page 99**

Recommendation 10: **The Department of Treasury and Finance implement changes to tendering guidelines that alert tendering organisations to the benefit of publicly issuing a value for money statement on key aspects of the tender approach.**

Page 100

Recommendation 11: **The Department of Treasury and Finance ensure its updating of tendering guidelines incorporates the specific probity matters cited by the Auditor-General as necessary to strengthen guidance for maintaining the probity and integrity of major innovative tenders.**

Page 108

Recommendation 12: **The Department of Treasury and Finance include a provision within guidelines for major and complex tenders that requires physical separation of a project team from the location of negotiation and clarification meetings with tenderers.**

Page 109

RECOMMENDATIONS FOR AGED CARE FACILITIES

The Public Accounts and Estimates Committee recommends that:

Recommendation 1: The Department of Human Services continue to undertake planning on future capital works needs of public sector aged care facilities in order to strategically invest in meeting the needs of the Victorian community.

Page 129

Recommendation 2: The Department of Human Services review the scope of fire safety audits required under the Fire Risk Management Guidelines, as highlighted by the Auditor-General, to ensure that they constitute a comprehensive review including operational testing of a facility's fire safety systems.

Page 142

Recommendation 3: The Department of Human Service review the Service Agreement Information Kit to ensure that it includes reference to current public sector asset management policies and principles aimed at maximising the service delivery potential of a facility and managing the related risks and costs over the life of the facility. In particular Agreements need to specify:

- (a) the requirement for providers to develop asset management strategies;
- (b) the minimum performance standards expected from providers in managing and maintaining the facilities in an effective manner; and
- (c) the monitoring arrangements and accountability mechanisms in place for demonstrating compliance with public sector asset management principles.

Page 151

- Recommendation 4:** **The Department of Human Services review the methodology for calculating maintenance budget and consider using current replacement value for determining funding.**
- Page 155**
-
- Recommendation 5:** **The Department of Human Services examine if a current maintenance shortfall exists and use this information to support a submission to the Commonwealth for increased funding.**
- Page 155**
-
- Recommendation 6:** **The Department of Human Services consider providing guidance so service providers can better manage their accommodation bonds to ensure they are maximising the benefit from these funds for capital works.**
- Page 158**
-
- Recommendation 7:** **The Department of Human Services ensure that in regards to the current Building Code of Australia requirements as they relate to public aged care facilities:**
- Page 165**
- (a) facilities are maintained in accordance with this standard to ensure quality and safety; and**
 - (b) health service providers are encouraged to maintain their knowledge of the requirements and develop strategies to meet these standards.**
-
- Recommendation 8:** **In the light of any future changes to the certification program by the Commonwealth Department of Health and Ageing, the Department of Human Services undertake a review of its processes and procedures to ensure that service providers continue to adequately maintain and improve the physical standards of public sector residential aged care facilities.**
- Page 166**

Recommendation 9:

The Department of Human Services, as a priority:

- (a) undertake fabric surveys in a more timely manner in future;**
- (b) consistent with the Auditor-General's recommendation, put in place a process to undertake assessments of public sector aged care facilities between fabric surveys;**
- (c) undertake future fabric surveys every 5 years to provide the Department with current information to inform asset-management decision making; and**
- (d) finalise the current fabric survey and prepare a strategy to address infrastructure needs highlighted.**

Page 169

RECOMMENDATIONS FOR PRIORITY TWO FOLLOW-UP

The Public Accounts and Estimates Committee recommends that:

Recommendation 1: The Auditor-General place on his audit plan, a review of Department of Transport's project management framework and the supporting governance arrangements to ensure they are sufficiently robust.

Page 1786

Recommendation 2: That Department of Innovation, Industry and Regional Development engage commercial advisers or source relevant expertise to undertake regular financial assessments of the Docklands film and television studios.

Page 180

Recommendation 3: That, as a matter of priority, the Auditor-General undertakes a follow up audit of the State's investment in the Docklands film and television studio.

Page 180

Recommendation 4: That Department of Innovation, Industry and Regional Development undertake a review of the validation process for Change Drivers after two years of operation.

Page 186

Recommendation 5: That the Victorian Skills Commission review its planning process to be a forward, incremental and benchmarked rolling three year plan.

Page 187

Recommendation 6:

That Department of Innovation, Industry and Regional Development continue to implement the Auditor General's recommendation and provide TAFE institutions with guidance in developing strategic plans which link into the business plans of both Skills Victoria and TAFE institutions as well as general Government policy.

Page 188

Recommendation 7:

That Department of Innovation, Industry and Regional Development ensure that through its TAFE Selected Measures Report or other such document, outcomes of Vocational Education and Training are tracked and measured in meaningful and reliable ways.

Page 189

PART A – GOVERNMENT ADVERTISING

CHAPTER 1: BACKGROUND TO THE REVIEW

1.1 Scope and purpose: the report of the Auditor-General on *Government Advertising*

Over the past 12 years, the Auditor-General has undertaken four audits in the area of government advertising and publicity. The most recent in September 2006, is the subject of this follow-up report.

The primary purpose of the 2006 audit of *Government Advertising* was to determine whether selected public sector advertising campaigns complied with the government advertising guidelines and whether processes surrounding the management of government advertising and communications activities were adequate.

Specifically, the audit focussed on eight advertising campaigns, running during the latter part of 2005.

In assessing the selected campaigns, the Auditor-General considered the material made available to the public “*from the position of the reasonable person in the absence of information to judge the actual intent or purpose for the advertisements or communication material*”.¹

The audit also examined:²

- the level of advertising and communications expenditure, including media buying;
- the appropriateness of the use of media buying rebates;
- procurement of services for each of the eight campaigns to determine compliance with procurement requirements; and
- the appropriateness of arrangements in place to ensure effective governance and oversight of government advertising and communications activities.

The Secretary of the Department of Premier and Cabinet in commenting on the scope of the audit notes that:³

... future audits of government advertising and communications are run as more formal benchmarking exercises conforming to the relevant audit standards, against a wider and more representative cross-section of government communication activities.

This would alleviate any future concerns arising about audit objectives, scope or methodologies.

The Secretary of the DTF also expressed concerns about methodology.⁴

¹ Victorian Auditor-General's Office, *Government Advertising*, September 2006, p.3

² *ibid.*, p.22

³ *ibid.*

⁴ *ibid.*, p.14

The Committee notes that the Auditor-General chose the eight campaigns because “they were running at the time of public debate about government advertising heightened in late 2005.”⁵ It also noted his assurance that “assessments need, as much as possible, to be objective and not swayed by the public debate.”

The Committee supports the suggestion of the Secretary of the Department of Premier and Cabinet and recommends that:

Recommendation 1: **Audits of government advertising and communications should be conducted as formal benchmarking reviews, examining a wide cross-section of government communication activities and campaigns, in conformity with relevant audit standards.**

1.2 Findings of the Auditor-General

The main findings of the Auditor-General were:⁶

- an absence of readily available data on expenditure by the public sector on advertising and communications;
- concerns over the management and oversight of the media buying Master Agency Media Service contracts;
- the need for the *Guidelines for Victorian Government Advertising and Communications* to be strengthened;
- instances where a number of the campaigns selected for review did not fully comply with the relevant procurement policies and practices; and
- the need for improvements in documentation to evidence assessment of campaigns against government policies and guidelines.

1.3 Responses to findings by the Secretaries of the agencies reviewed

Specific responses are detailed in the respective sections contained elsewhere in this report however the overall responses are noted, in part.

The main points of the response of the Secretary, Department of Premier and Cabinet were noted as follows:⁷

- the audit resulted in a general acknowledgement of the role that contemporary advertising techniques can play in supporting Government policy objectives;
- in the Department’s view, nothing in the Auditor-General’s report could be interpreted as fundamentally challenging the current practices in respect to the planning and implementation of advertising and communication activities by government;

⁵ *ibid.*, p.111

⁶ *ibid.*, pp.4-13

⁷ *ibid.*, p.13

- levels of government advertising activity were generally in long-term decline, with recent increases largely due to the 2006 Commonwealth Games; and
- confirmation that the Government is committed to reviewing the guidelines for advertising and communications in line with the general direction suggested by the Auditor-General and best practice as considered by the media, academia, communications practitioners and other governments in Australia and overseas.

The following concerns were expressed in the response from the Secretary, DTF:⁸

- the basis of selection of the campaigns, which implied that the audit was an investigation of community concerns about the quantum and nature of government funded advertising rather than an examination of a broad cross-section of government communication activity, even though commentary in the report extended to conclusions and recommendations for broader government communication processes;
- the lack of identification of which parts of the general community had expressed concerns about government advertising which, in the interests of fairness and balance, would have assisted in determining whether the concerns were representative of broader community interests; and
- the Auditor-General's methodology drew conclusions about expenditure on advertising and communication activities since 2002 without regard to factors impacting on the figure such as the implementation of new initiatives and programs.

The response of the Secretary, Department of Justice was to disagree with the Auditor-General's conclusion on the matter of compliance of the *CrimeSmart* campaign with government advertising guidelines.⁹

The response of the Secretary, Department of Human Services was that the Auditor-General's report included some interpretations and conclusions which could be misleading or misinterpreted because of ill-defined terminology concerning what is defined as '*communications*' and ill-defined expenditure categories across government departments for comparing expenditure on '*advertising and communications*'.¹⁰

The Secretary, Department of Innovation, Industry and Regional Development noted the overall endorsement of the *World Class Performance* campaign and the findings that the *Make it Happen* campaign fully complied with guidelines.¹¹

The response of the Secretary, Department of Sustainability and Environment, was that the Auditor-General's report was in general fair and balanced but contended that the *Our Water, Our Future* campaign had complied with all aspects of the government advertising guidelines.¹²

1.4 Response by the Auditor-General to the Committee

In response to the Committee's request to the Auditor-General for a submission to its review, the Auditor-General advised the Committee that he had reviewed the responses of agencies published in the *Response by the Minister for Finance to the Auditor-General's Reports issued during 2006-07* which indicated that most of the recommendations have been accepted and actioned by the departments involved.

⁸ *ibid.*, p.14

⁹ *ibid.*, p.15

¹⁰ *ibid.*, pp.15-16

¹¹ *ibid.*, p.16

¹² *ibid.*

In relation to the issue of the need for more information on advertising and promotional expenditure in annual reports, the Auditor-General noted that agencies largely did not agree with this recommendation. The Auditor-General stated that this recommendation “...was in support of the April 2006 recommendation of the PAEC in its Report on the 2004-05 Budget Outcomes”¹³ which sought expanded information in annual reports on the cost and management of government advertising and promotion programs.

The Auditor-General acknowledged the Department of Premier and Cabinet's intention to review the government guidelines on advertising with reference to best practice. The Auditor-General went on to note that “...any review that does not produce a clear means of delineating between the legitimate use of public funds for advertising and communications expenditure, and inappropriate activity, will again fall short of the mark.”¹⁴

The Auditor-General noted that Victoria was no different to other jurisdictions in Australia or internationally in regards to perceptions that public funds are used for advertising that is political in nature, and calls from opposition parties for reviews of specific advertising activities are a “consistent feature of the Victorian scene.”¹⁵

In a final comment, the Auditor-General stated:

*...in the case of government advertising and communications activities, I concur with the words of my predecessor Ches Baragwanath in his 1996 Marketing Government Services report ... for such conventions to be effective, they would need to receive the support of all political parties represented in the Parliament.*¹⁶

1.5 Scope of the review undertaken by the Committee

On 27 March 2008, a public hearing was held with Mr Chris Eccles, Acting Secretary, Mr Tom Martin, Director, Strategic Communications Branch and Ms Sandra De Minico, Assistant Director, Strategic Communications Branch, Department of Premier and Cabinet and Mr Grant Hehir, Secretary, Mr Steve Mitsas, Director, Whole of Government and Principal Accounting Officer and Mr Steve Schink, Director, Strategic Management Division, DTF.

On the 24 April 2008, a public hearing was held with Mr Des Pearson, Auditor-General, Ms Ellen Holland, Senior Director, Dr Peter Frost, Chief Operating Officer and Mr Rocco Rottura, Performance Auditor from the Victorian Auditor-General's Office.

The following chapters outline the Committee's findings on key issues relating to government advertising and communication activities.

¹³ Mr D Pearson, Auditor-General, Victorian Auditor-General's Office, letter to the Committee, received 11 March 2008, p.4

¹⁴ *ibid.*, p.7

¹⁵ *ibid.*, p.6

¹⁶ *ibid.*, p.7

CHAPTER 2: REPORTING PUBLICLY FUNDED GOVERNMENT ADVERTISING AND COMMUNICATION ACTIVITIES

Determining the amount spent annually by the Victorian public sector on government advertising and communication activities is complicated. The Auditor-General identified the following difficulties in attempting to calculate the total public sector spend on government advertising for his report:

- there is no central record of the size of the publicly funded advertising and communications spend in Victoria;¹⁷
- specific expenditure items such as administrative expenses and advertising and communications activities are not separately specified in the annual budget papers of government departments;¹⁸
- the *Financial Management Act 1994* makes no requirement of departments and public bodies to publicly report annually on the volume or cost of their advertising and communications activities;¹⁹ and
- there are definition problems as to which particular activities should be included in advertising expenditure. For example; the Auditor-General found that advertising includes the cost of purchasing media space and time, creative strategy development, copywriting, layout, photography, artwork and production. He also reported that other government communication and publicity activities can include associated salary costs, printed material, sponsorships, market research, exhibitions and trade fairs, travel and post-campaign evaluation.²⁰

2.1 Cost of Government Advertising

The one exception to the lack of central recording relates to media buying. In this instance, the Department of Premier and Cabinet manage this activity through the Media Agency Marketing Services (MAMS) contracts. Under these contracts, two media buying agencies, one providing campaign and one providing non-campaign advertising and other recruitment advertising, undertake media planning, buying and related services for all government bodies in Victoria. The Committee was informed that advertising expenditure under the MAMS contracts totalled \$109.5 million in 2006-07.²¹

The Auditor-General estimated that Victorian public sector advertising and communication expenditure was \$125 million for 2002-03, \$147.1 million for 2003-04 and \$161.3 million for 2004-05.²²

The Committee have also attempted to collect estimates of department and agency spending on advertising and communications and report on such expenditure in both its Budget Estimates and Financial and Performance Outcomes reports.

¹⁷ Victorian Auditor-General's Office, *Government Advertising*, September 2006, p.19

¹⁸ *ibid.*, p.25

¹⁹ *ibid.*, p.26

²⁰ *ibid.*, p.28

²¹ Public Accounts and Estimates Committee, *Report on the 2006-07 Financial and Performance Outcomes*, May 2008, p.474

²² Victorian Auditor-General's Office, *Government Advertising*, September 2006, p.4

Table 2.1 provides information on departmental expenditure between 2002 and 2008, including the budget estimate figure for 2007-08.

Table 2.1 Estimated departmental expenditure on advertising and promotion activities 2002–2008

Year	Estimated expenditure (\$ million)
2002-03	71.0 (a)
2003-04	77.6 (a)
2004-05	78.3 (a)
2005-06	58.1 (b)
2006-07	70.0 (b)
2007-08	73.0 (c)

- Notes: (a) *MAMS Contracts - calendar years, Government Advertising, September 2006, p.35*
 (b) *Public Accounts and Estimates Committee, Report on the 2006-07 Financial and Performance Outcomes, No.79, pp.471-472*
 (c) *Public Accounts and Estimates Committee, Report on the 2007-08 Budget Estimates, No.73, p.111 - budget*

Source: Victorian Auditor-General's Office

The Committee also provided details of agency expenditure on advertising and promotion costs for 25 major statutory agencies in its *Report on the 2006-07 Financial and Performance Outcomes*. This was the most comprehensive record to date as the Auditor-General's report only covered 15 agencies. Expenditure recorded by the 21 agencies amounted to \$61.3 million in 2005-06 and \$71.8 million in 2006-07.

Table 2.2 Aggregate advertising and promotion costs in selected agencies in 2006–07 and 2005–06

Agency	2006-07 Actual (\$ million)	2005-06 Actual (\$ million)	Variation (%)
Human Services			
Bayside Health	0.8	0.6	33.3
Eastern Health	0.5	0.5	-
Melbourne Health	0.4	0.3	33.3
Western Health	0.3	0.3	-
Southern Health	0.7	2.0	65.0
Royal Children's Hospital	0.2	0.2	-
Barwon Health	0.4	0.5	-20.0
Infrastructure			
Southern Cross Station Authority	0.1	0.5	-80.0
Southern and Eastern Integrated Transport Authority	0.3	0.4	-25.0
VicRoads	4.1	2.5	64.0
Innovation, Industry and Regional Development			
Tourism Victoria	4.7	3.1	51.6
Victorian Learning & Employment Skills Commission	0.8	0.2	300.0
Justice			
Metropolitan Fire and Emergency Services Board	0.3	0.2	50.0
Premier and Cabinet			
National Gallery of Victoria	1.8	1.4	28.5
Sustainability and Environment			
Parks Victoria	1.2	0.4	200.0
Barwon Water	0.6	0.5	20.0
Goulburn – Murray Rural Water Authority	0.5	0.3	66.6
Melbourne Water	0.6	1.0	40.0
Treasury and Finance			
City West Water	3.8	3.1	22.6
Rural Finance Corporation	0.7	0.7	-
South East Water	2.3	1.9	21.0
Transport Accident Commission	30.1	25.9	16.2
Treasury Corporation of Victoria	0.3	0.3	-
Victorian WorkCover Authority	16.4	13.8	18.8
Yarra Valley Water	0.4	0.7	-42.8

Source: Public Accounts and Estimates Committee, Report on the 2006-07 Financial and Performance Outcomes, p.472

2.2 Reporting on the cost of Government advertising

The Committee has shared the view of the Auditor-General that there are definitional problems when seeking to determine exactly which activities should be included. In its questionnaires the Committee has asked for reporting on advertising and communications. There have been variations in interpretation as to what this might include. For example:

- Does advertising include advertising to fill vacancies?
- Does communication relate to specific campaigns or include all public relations?
- Does advertising include regular publications by departments and agencies on their programs?
- Does it include the cost of annual reports?

In the past the Committee has made recommendations about the DTF expanding the annual reporting requirements of departments to include information on the cost and management of government advertising and promotional programs.²³ It was recommended in the *2007-08 Budget Estimates* report that:

*Departments include expenditure on communications, advertising and promotion by all statutory authorities and government entities in future reporting to allow for full reporting and transparency.*²⁴

The Auditor-General in his report, endorsed the Committee's call for annual reporting requirements to be expanded to include more information.²⁵ The report went on to say that budgets should be set and that annual reports should include details of budgets, revisions and actual expenditure. It also recommended that agencies develop the capacity to accurately identify and report on advertising and communication expenditure.²⁶

However, based on figures reported by the Auditor-General, campaign expenditure (i.e. promotional material relating to new policies, programs and initiatives and communications to the Victorian public of their particular obligations and entitlements) makes up around 90 per cent of the total expenditure by government on advertising and communications. The remaining 10 per cent of expenditure relates to non-campaign expenditure such as the public sector job advertisements, tenders, official bulletins and statutory notices.²⁷

The Committee agrees that the focus of reporting and auditing in respect of government advertising and communication should primarily be in respect of campaign expenditure as this represents the overwhelming part of total expenditure. It notes responses by departments that it is difficult to provide full details of advertising, communication and promotions, not only because of definitional problems but also because such activities are often embedded with program costs and not easily isolated. In contrast, specific advertising and promotion programs are usually separately identified and reported on by departments and agencies. The report on the *2006-07 Financial and Performance Outcomes* details such programs in tables 17.3 and 17.4.²⁸

²³ Public Accounts and Estimates Committee, *Budget Outcomes 2004-05*, p.37

²⁴ Public Accounts and Estimates Committee, *Report on the 2007-08 Budget Estimates Part Three*, p.112

²⁵ Victorian Auditor-General's Office, *Government Advertising*, September 2006, p.5

²⁶ *ibid.*, p.49

²⁷ *ibid.*, p.32

²⁸ Public Accounts and Estimates Committee, *Report on the 2006-07 Financial and Performance Outcomes*, pp.474, 476-484

2.3 Response by Departments

The Committee notes government and departmental responses to both the report of the Auditor-General and to the recommendation of the Committee in respect to improved reporting of advertising expenditure have in the past been mixed.

Departments have noted that advertising and communications are often not stand alone budget items²⁹ and amounts are often immaterial while agreeing that departmental chart of accounts could be modified to catch such data.³⁰

In respect to the Auditor-General's recommendation for disclosure of the details of budgets and actual expenditure on advertising and communications in the annual reports of agencies, this recommendation was not supported by the Secretary of DTF, who responded that:³¹

Advertising and communication activities are not independent of program or policy development, implementation and evaluation. As such, budgeting an appropriate amount for advertising and communication activity is encouraged as (a very small) part of program delivery, not as a stand-alone budget item.

The Secretary, DTF viewed the Auditor-General's and Committee's recommendations in respect to disclosure in annual reports as inconsistent with the financial management and accountability framework in Victoria which focuses on outcomes rather than inputs. In particular, the Secretary stated that:³²

In conclusion, DTF is of the view that current reporting practices are appropriate.

The Committee notes that the DTF also responded to the Committee's *Report on the 2007-08 Budget Estimates-Part Three*, that:³³

DTF considers current reporting directions provide adequate disclosure. However, such directions are continually reviewed to ensure their continuing relevance and appropriateness.

In response to questions at the March 2008 Committee hearing on government advertising, the Secretary, DTF, maintained that the level of detail required to report on an individual budget for advertising and communications expenditure by each department was inconsistent with current financial and reporting requirements which focus on outcomes. Further; to have a mandated requirement across all departments for advertising and communications expenditure to become a separate budget item in each budget document, would seem too fine a level of detail in terms of the materiality test in accordance with accounting standards.

The Committee, however, was advised that individual departments are expected to have internal budget and accountability processes in place which enable them to maintain information on promotional and public relations activities and to make that information available on request.³⁴

²⁹ Victorian Auditor-General's Office, *Government Advertising*, September 2006, p.53

³⁰ Public Accounts and Estimates Committee, *Report on the 2007-08 Budget Estimates Part Three*, p.113

³¹ Victorian Auditor-General's Office, *Government Advertising*, September 2006, p.53

³² Mr G Hehir, Secretary, Department of Treasury and Finance, letter to the Committee, received 17 March 2008, p.1

³³ *ibid.*, p.2

³⁴ Mr G Hehir, Secretary, Department of Treasury and Finance, transcript of evidence, 27 March 2008, pp.4-5

In April 2008, following the Committee hearing, the Secretary, DTF, wrote to the Committee advising that the Department would undertake a review of the guidelines supporting *Financial Reporting Direction 22B 'Additional Departmental Information Available on Request'*, to improve the transparency of reporting in the area of government advertising and communication activities. The Secretary agreed that the current guidelines were '*not absolutely explicit in this area*' and '*could be further enhanced*'.³⁵

At the Committee hearing with the Auditor-General held in April 2008, the Auditor-General reiterated the recommendations made in his report in respect to the need for greater accountability in terms of expanded annual reporting requirements of agencies to '*incorporate information on the cost and management of government advertising and promotional programs*'.³⁶

At the hearing the Committee was keen to get some agreement from both the Department of Premier and Cabinet and the DTF about what might be developed in terms of a system which would provide an accurate representation of the amount of money spent annually by public sector agencies on advertising and promotional activities.

The Committee acknowledges advice from the DTF, that the current financial reporting directions relating to additional information to be made available on request in respect to information on advertising and communications activities, will be reviewed with a view to making them more explicit.

2.4. Response of the Committee

The Committee welcomes this assistance in continuing to provide comprehensive reports on expenditure by departments and agencies in respect to advertising and communications. It suggests that departments may prefer to collect and include such information in their annual reports in the interest of early reporting and transparency as such data will be requested of them by this Committee and reported in its annual Outcomes report.

As noted above, the Committee accepts that the main focus in regard to advertising and communication should be in respect to specific campaigns. In this regard, it recognises that expenditure under the whole of government Master Agency Media Services (MAMS) contract is the key element in contracted advertising by government agencies and departments.

Accordingly, the Committee reiterates its findings in its recent report on the *2006-07 Financial and Performance Outcomes*:

The Committee noted that it received in April evidence from the heads of the Department of Premier and Cabinet and DTF, in regard to advertising expenditure. The evidence included an explanation of the whole of government Master Agency Media Services (MAMS) contract managed within the Department of Premier and Cabinet. Under this contract, two media buying agencies, one providing campaign and non-campaign advertising and the other recruitment advertising, undertake media planning, buying and related services for all government bodies in Victoria. The Committee was informed that advertising expenditure under MAMS in 2006-07 totalled \$ 109.5 million.

³⁵ Mr G Hehir, Secretary, Department of Treasury and Finance, letter to the Committee, received 9 April 2008, p.2

³⁶ Mr D Pearson, Auditor-General, Victorian Auditor-General's Office, transcript of evidence, 24 April 2008, p.2

Following consideration of this evidence, the Committee accepts that the baseline figure for contracted advertising under various programs is now centrally organised through MAMS. Other incidental costs incurred by departments and agencies for minor information and promotional purposes form part of general management expenditure.

The Committee recognises that it is not always possible for departments and agencies to fully plan for advertising and promotion campaigns as, on occasion, circumstances demand urgent public information campaigns (for example, bushfires, water restrictions, floods etc.). However, for many agencies and departments there are regular and recurring information and advertising campaigns which can be planned and budgeted for in advance (for example, Transport Accident Commission, Victorian WorkCover Authority, Department of Primary Industries etc.). The Committee expects, where this is the case, departments and agencies should be able to give an account of actual performance against budgeted objectives.

2.5 Reporting on the MAMS contract cost

At the Committee hearing, the Acting Secretary, Department of Premier and Cabinet, advised that while the new MAMS contracts payment arrangements would come into effect on 1 July 2008, the detail of where and how the MAMS contract expenditure would be reported was as yet to be determined.³⁷

In August 2008, the Department of Premier and Cabinet advised the Committee that:³⁸

DPC is currently developing a proposal for Government consideration regarding the publishing of aggregate Government expenditure under the Master Agency Media Services contract.

The Committee, in recognising that MAMS expenditure is the key indicator of advertising program expenditure, expects that departments and agencies give a full reporting in the annual reports of such expenditure. Such reporting should be provided having regard to specific advertising and promotion campaigns. The Committee would also welcome reporting in annual reports of full expenditure by departments and agencies on advertising, communication and promotion.

The Committee's consideration and recommendations on performance reporting of campaigns are to be found in Chapter 5.

³⁷ Mr C Eccles, Acting Secretary, Department of Premier and Cabinet, transcript of evidence, 27 March 2008, p.3

³⁸ Ms H Silver, Secretary, Department of Premier and Cabinet, letter to the Committee, received 25 August 2008, p.1

The Committee recommends that:

Recommendation 2:

The Department of Treasury and Finance expand the annual reporting requirements of public sector agencies to include:

- (a) detailed reporting of expenditure under the MAMS contract; and**
- (b) reporting of expenditure under specific advertising and communications campaigns, including:**
 - (i) outcome of campaign against its objectives;**
 - (ii) details of original budget;**
 - (iii) any budgetary revisions;**
 - (iv) actual expenditure; and**
 - (v) explanations of significant variations between actual expenditure and budgeted expenditure.**

CHAPTER 3: THE MEDIA AGENCY MARKETING SERVICES (MAMS) CONTRACTS

3.1 Background

The whole of government Media Agency Marketing Services (MAMS) contracts were established in January 2001. The purpose of the contracts is to consolidate the government's media buying function in order to maximise its purchasing power and achieve savings in advertising costs across the whole of government. Under this arrangement, two media buying agencies, one providing campaign and one providing non-campaign advertising and other recruitment advertising, undertake media planning, buying and related services for all government bodies in Victoria. The contracts are managed by the Department of Premier and Cabinet and the contractors are required to provide regular reports to the Department on the total cost of media buying activity transacted by all agencies accessing the MAMS contracts. As previously noted, the Department advised that in 2006-07 advertising expenditure under the MAMS contracts totalled \$109.5 million.³⁹

3.1.1 Operation of the MAMS contracts

The Auditor-General noted in his report that all government departments and agencies are expected to use the MAMS contracts for media buying and that non-government bodies that receive funding from the government for the provision of programs, may also access the contracts for media buying associated with these programs.⁴⁰

At the time of the audit, MAMS contractors purchased media space (referred to as media placement) on television, radio or in newspapers from media companies on behalf of government agencies. These media companies then invoiced the MAMS contractors for 90 per cent of the fee for the media placement, discounted on the guarantee that they will receive payment within 45 days. The MAMS contractors invoiced the government agencies for the full fee for the media placement to cover the media company's fee plus the MAMS contractors' fee for purchasing the space.

The actual fee chargeable by a MAMS contractor to an agency varied depending upon the amount and type of services being provided by the contractor and the agency's timeliness in paying the invoice. This fee was most often less than 10 per cent of the gross fee for the media placement.

Under the terms of the MAMS contracts, a rebate on the total cost of the media purchased was payable to the agency purchasing the media space or to the State. The amount of the rebate was the difference between the 10 per cent of the total cost of the placement fee already paid to the MAMS contractor and the fee calculated as chargeable by the MAMS contractor based on the factors outlined above.

Under earlier arrangements the contractor would liaise with the agency buying the media space to ascertain how it wished to receive its rebate i.e. via cheque or electronic funds transfer or held as a credit to be off-set against future media buys. In September 2002, the Department of Premier and Cabinet directed the MAMS contractors to hold all rebates accrued by "core government agencies" on behalf of the Department. This change was made to allow the Department to use the rebates for whole-of-government advertising and communication activities.

³⁹ Public Accounts and Estimates Committee, *Report on the 2006-07 Financial and Performance Outcomes*, May 2008, p.474

⁴⁰ Victorian Auditor-General's Office, *Government Advertising*, September 2006, p.33

3.1.2 Auditor-General's findings and recommendations

In his 2006 report on *Government Advertising*, the Auditor-General revisited his 2003 special review of the management of the MAMS contracts.

His 2003 report had found that rebates held by the MAMS contractors totalled some \$2.3 million and were yielding no interest to the government. He also reported that in the event of a contractual dispute or financial failure, these funds may not be recoverable by the Victorian Government.⁴¹ As a result of these comments, in May 2003, the Department of Premier and Cabinet established a separate MAMS Rebates Trust Account which is operated by the MAMS contractors. Under this arrangement all rebates not returned directly to agencies are to be paid into the account by the contractors as they accrue.⁴²

The Auditor-General had also reported in June 2003 that:⁴³

Given that the media providers only invoice the MAMS contractors for 90 per cent of the costs, it is unclear what value is derived from the current rebate approach. In a simpler arrangement, the agencies could directly benefit from the media discount by paying only the discounted media rates and paying contractors directly for their fees...The contractual arrangements are complex and do not have proven benefits. They should be reviewed.

The Department of Premier and Cabinet responded that the net billing of media invoices would create the difficulty of how to remunerate the contractors, as a simple fee-for-service model would result in smaller agencies subsidising larger ones.⁴⁴

In his 2006 report on *Government Advertising*, the Auditor-General reiterated his 2003 recommendation that the rebate arrangement should be replaced by fee-for-service payments. Following an examination of the rebates account transactions over the period May 2003 to April 2006, the Auditor-General concluded that a significant portion of the rebates had been used for purposes outside the scope of the existing contract, and to facilitate proper public accountability, should have been transacted through the Consolidated Fund rather than a Trust Fund. He recommended that, in the event that rebates continued to be part of the MAMS contractual arrangements, the rebates guidelines be amended to comply with the contractual arrangements in place for use of those rebates. In addition, he concluded that oversight of the MAMS Rebate Trust Account by the Department required improvement and recommended that the Department establish appropriate internal audit arrangements over the media buying transactions effected by the MAMS contractors.⁴⁵

⁴¹ Victorian Auditor-General's Office, *Report on Public Sector Agencies: Part 3: Special Reviews, Government Advertising – Management of the Master Agency Service Contracts*, June 2003, p.59

⁴² Victorian Auditor-General's Office, *Government Advertising*, September 2006, p.42

⁴³ Victorian Auditor-General's Office, *Report on Public Sector Agencies: Part 3: Special Reviews, Government Advertising – Management of the Master Agency Service Contracts*, June 2003, p.59

⁴⁴ *ibid.*, p.65

⁴⁵ Victorian-Auditor General's Office, *Government Advertising*, September 2006, pp.48-49

3.1.3 **Response by the Department of Premier and Cabinet**

The Secretary, Department of Premier and Cabinet, disagreed that the rebates had been used in ways that were inconsistent with the MAMS contractual arrangements stating that:⁴⁶

...the rebates were legitimately able to be used in the manner and for the purposes outlined in the Guidelines for the management of media rebates earned under the terms of the Master Agency Media Service (MAMS) contract, as circulated to government departments and agencies in 2003.

On the issue of rebates and administration of the MAMS rebate account, the Secretary responded that the rebate system would continue to be a part of the MAMS contract but the rebates guidelines would be reviewed during 2007. It was agreed that the Department needed to devote more resources to the oversight of the rebates account and that internal audit arrangements would continue to be applied to MAMS transactions.⁴⁷

3.1.4 **Subsequent developments**

In February 2008, the Committee wrote to the Department of Premier and Cabinet seeking comments in respect to actions taken to amend the rebates guidelines and improve the oversight and administration of the MAMS rebates account.

In its response, the Department advised that the Government had recently endorsed a proposal to move away from the rebate system and adopt a more transparent payment model whereby agencies would be charged at cost by the MAMS contractors for media purchased and then be levied a fee for the service by the contractors.

In respect to establishing appropriate internal audit arrangements, the Department advised that customer satisfaction and compliance surveys had been completed in November 2007 with only one compliance exception noted and that annual audits will continue to ensure appropriate monitoring of MAMS transactions.⁴⁸

At the Committee hearing in March 2008, the Acting Secretary, Department of Premier and Cabinet, confirmed that a new MAMS contract had been put in place which moves away from the method of calculating rebates. He advised that a new '*totally transparent user-pays system*' would be introduced from 1 July 2008 for all MAMS contract users. The Committee was advised that all contract users will be charged at cost for the media purchased on their behalf plus a small percentage of the total cost will be charged by the MAMS contractors as a service fee.⁴⁹

⁴⁶ *ibid.*, p.51

⁴⁷ *ibid.*, pp.52-53

⁴⁸ Mr C Eccles, Acting Secretary, Department of Premier and Cabinet, letter to the Committee, received 14 March 2008

⁴⁹ Mr C Eccles, Acting Secretary, Department of Premier and Cabinet, Transcript of evidence, 27 March 2008, p.3

Following a request from the Committee for clarification of evidence provided at the Committee hearing on the new MAMS contracts payment arrangements, the Department advised the Committee on 25 August 2008, that as of 1 July 2008, all entities using the MAMS contracts are booked and invoiced at “net media cost”, which is 10 per cent less than the gross media cost. This means that all entities are receiving a 10 per cent discount on the gross media cost of their advertising. The MAMS contractors are remunerated through a fixed retainer fee paid by the Department of Premier and Cabinet from funds collected from agencies using the contracts (i.e. on a user pays basis). Under this ‘user pays scheme’, a fee calculated at 3.5 per cent of the net media cost is collected by the MAMS contractors on behalf of the Department and paid into the MAMS Trust Account. The Department advised that, the savings/cost impact of the new MAMS payment arrangements, are as follows:⁵⁰

- the new arrangement will provide savings for departments that previously contributed 10 per cent of the gross media cost to the MAMS Trust Account; and
- the new arrangement will cost more for those non-departmental entities (now classified as public entities) that previously contributed nothing and who will now pay 3.5 per cent of the net cost.

The reporting of expenditure under the MAMS contract has been discussed in Chapter 1.

3.1.5 Access to the MAMS contract

At the hearing the Committee was advised that the 10 core government departments and Victoria Police are obliged to use the contract, and that all other budget agencies choose to use the contract because of the cost advantages that it provides.⁵¹

The Victorian Government Purchasing Board (VGPB) website states in relation to the MAMS contract:⁵²

All Victorian Government Departments, agencies and statutory authorities must use MAMS to make their media bookings. If your organisation is listed in the Victorian Government directory, you must use the contract.

The Department of Premier and Cabinet advised the Committee at the hearing that if a public body was unhappy about paying the fee for service to the MAMS contractor, and they were a non-core department, then they were free to go outside the contract.⁵³

While access to the MAMS contracts was not covered in the Auditor-General’s 2006 audit, it was commented on in his June 2003 report. In that report the Auditor-General found that the contract made reference to access by “other entities” at the discretion of the Department of Premier and Cabinet, but found no guidance for using such discretionary power. The report recommended that the Department establish guidance on when “other entities” may access the contract and develop a process which effectively monitors access to the contracts.⁵⁴

⁵⁰ Ms H Silver, Secretary, Department of Premier and Cabinet, letter to the Committee, received 25 August 2008, p.7

⁵¹ Mr T Martin, Director, Strategic Communications Branch, Department of Premier and Cabinet, transcript of evidence, 27 March 2008, p.4

⁵² Victorian Government Purchasing Board: Master Agency Media Services (MAMS), effective 1 September 2006 – 31 August 2009

⁵³ Mr T Martin, Director, Strategic Communications Branch, Department of Premier and Cabinet, transcript of evidence, 27 March 2008, p.23

⁵⁴ Victorian Auditor-General’s Office, *Report on Public Sector Agencies: Part 3: Special Reviews, Government Advertising – Management of the Master Agency Service Contracts*, June 2003, p.60

At the time, the Department responded that the number of entities accessing the contract was under review and an on-line data base developed by the DTF would be shared to control and verify contract users.

Following the hearing, the Committee requested further information from the Department of Premier and Cabinet in relation to access by government entities to the MAMS contracts. The Department advised that the use of the MAMS contracts is mandatory for all Victorian Government entities that are public service bodies, public entities and special bodies as defined in the *Public Administration Act 2004*. The Department advised that from 1 August 2008, all contract users will require a MAMS Approval Number which will be provided by the Government Communications Review Group as part of the new approvals process for government advertising and communications activities.⁵⁵

Entities which are outside the Victorian public sector as defined in the Act or which have been identified as an exempt body under the Act, public sector bodies placing advertising on behalf of either of these entities or similar entities created by other states, territories or the Commonwealth are ineligible to use the MAMS contracts.⁵⁶

Further, the Department advised that the following entities may be granted eligibility to use the MAMS contracts at the discretion of the Department of Premier and Cabinet:⁵⁷

- entities outside the Victorian public sector that are placing advertising solely as an agent of an entity required to use the MAMS contracts. DPC requires confirmation from the public sector entity on whose behalf the non-government entity is acting; and
- entities outside the Victorian public sector where circumstances are exceptional, there is demonstrated public benefit and use of the MAMS contract is not intended to provide a commercial entity with a competitive advantage.

In monitoring usage of the MAMS contracts, the Department advised that its Strategic Communications Branch works closely with the MAMS contractors and media organisations to ensure that they refuse bookings from government agencies that attempt to purchase media services directly. In addition, regular reporting by the MAMS contractors and communication with the media assists the Strategic Communications Branch in identifying government advertisers who are not using the contracts, and the Branch meets regularly with senior departmental communications officers who are responsible for ensuring compliance with all government advertising directives, policies and guidelines within their departments.⁵⁸

The Committee notes that the above grounds for eligibility of use by outside entities, as outlined by the Department, could cover use by local government and non-government entities that rely on public funding.

⁵⁵ Department of Premier and Cabinet, *Victorian Government Advertising and Communications Approval Process*, guidelines provided with letter dated 25 August 2008 from Ms H Silver, Secretary, Department of Premier and Cabinet

⁵⁶ Ms H Silver, Secretary, Department of Premier and Cabinet, letter to the Committee, received 25 August 2008, pp.4-5

⁵⁷ *ibid.*, pp.5-6

⁵⁸ *ibid.*, p.6

3.1.6 Future of the MAMS Rebate Trust Fund Account

The Auditor-General advised the Committee at its hearing in April 2008, that while he welcomed the removal of the rebate arrangements by the Department, he had some concerns about the Department's intention to continue to use a trust fund account to administer MAMS fees rather than the Consolidated Fund.

The Committee was advised that the view of the Auditor-General's Office is that use of the Consolidated Fund would facilitate proper public accountability and enable those agencies which originally appropriated monies to access those monies for other advertising and communication activities or other activities.⁵⁹

In response to a request from the Committee for follow-up information in respect to the continued operation of the MAMS Rebate Trust Account, the Department of Premier and Cabinet advised, in August 2008, that under the new MAMS payment arrangements, the 3.5 per cent service fee paid by contract users will be paid to the Department and held in a new trust account which is being established for the purpose of recording MAMS receipts and payments. The Department advised that the Strategic Communications Branch will be responsible for ensuring that funds in the trust account are drawn down as intended and in accordance with the approved purposes detailed in the MAMS Policy and Guidelines. Approved purposes are advised by the Department as follows:⁶⁰

- *In the first instance:*
 - *To pay the MAMS Contractors' remuneration fees as set out in their contract;*
 - *To pay those costs directly associated with the operation of the MAMS Contracts including but limited to the cost of auditing the contracts or creating, maintaining and delivering information for the benefit of MAMS users or otherwise enhancing or maintaining the delivery of media services to the Contract Users (Purchasers).*
- *And then, on approval by the Premier in writing, for any of the following purposes:*
 - *Advertising on subjects which can be clearly demonstrated to deliver real benefits to the whole of government;*
 - *Communication activity where a timely whole of Government response can only be achieved through extraordinary funding.*

3.1.7 Conclusion

The Committee is pleased to note the implementation of a new system of payment under the government's MAMS contract in line with the recommendation, first raised by the Auditor-General in June 2003 and, reported subsequently in his 2006 report on *Government Advertising*. It looks forward to early advice from the Department of Premier and Cabinet as to how it proposes to report aggregate expenditure under the MAMS contract and expenditure under the trust fund.

⁵⁹ Ms E Holland, Senior Director, Victorian Auditor-General's Office, transcript of evidence, 24 April 2008, pp.4-6

⁶⁰ Ms H Silver, Secretary, Department of Premier and Cabinet, letter to the Committee, received 25 August 2008, pp.7-8

The Committee notes that the Department of Premier and Cabinet continues to manage the MAMS contracts transactions through a trust fund, rather than through the Consolidated Fund. While the Committee recognises this as an effective device for ensuring the payment of fees, it notes that there is a discretionary element in regards to expenditure of any residual. Any such expenditure, as approved by the Premier, should be promptly and fully reported and accounted for.

The Committee recommends that:

Recommendation 3: **The Department of Premier and Cabinet finalise as soon as possible its proposal for Government reporting of advertising and communications expenditure by Victorian government entities under the MAMS contracts including any expenditure under the trust fund.**

CHAPTER 4: GUIDELINES FOR GOVERNMENT ADVERTISING AND COMMUNICATION ACTIVITIES

In the Foreword to his report, the Auditor-General stated that:⁶¹

It is appropriate for government to inform the public of new, existing or proposed government policies or policy revisions; to provide information on government programs or services or revisions to programs or services to which the public are entitled to access; to inform the public of their rights, entitlements or obligations under the law; to inform the public that the State is a good place to live, study, work or invest; and influence social behaviour, in the public interest. However, promotional activity needs to be tempered so that an incumbent government's natural advantage is not exploited.

As previously noted in Chapter 2 of this report, expenditure on government advertising and communications activities can generally be split into two main categories: campaign and non-campaign expenditure. Non-campaign expenditure relates to public service job advertisements, tenders, official bulletins and statutory notices, and comprises around 10 per cent of the total advertising and communications spend in Victoria.⁶² The remaining 90 per cent of advertising and communications spending relates to campaign expenditure, but within this are both activities which are related to community awareness and education, and activities which are related to promotion. The Committee is particularly concerned in this report with the campaign expenditure component.

Previous audits of government advertising and marketing conducted by the Auditor-General in 1996 and 2002 both recommended that conventions or guidelines covering advertising expenditure be introduced in order to manage the nature of this type of spending.

4.1 The Guidelines for Victorian Government Advertising and Communications

In October 2002, the Government introduced *Guidelines for Victorian Government Advertising and Communications* (the Government Advertising Guidelines).

The Government Advertising Guidelines prescribe basic principles which apply to all government agencies in the planning, development and ongoing management of government advertising and communication activities. These principles cover the objectives of government communications to which public funds may be applied, how to avoid the misuse of public funds for government advertising and communications and considerations aimed at maintaining standards of fairness, equity, probity and public responsibility in government communications.⁶³

4.1.1 Auditor-General's findings and recommendations

The Auditor-General's audit included the selection of eight advertising campaigns undertaken by the government during 2005 to assess whether those campaigns complied with all relevant government policies and guidelines. In assessing compliance with the Government Advertising Guidelines, the Auditor-General found that two campaigns fully complied with the Guidelines

⁶¹ Victorian Auditor-General's Office, *Government Advertising*, September 2006, Foreword

⁶² *ibid.*, p.32

⁶³ *ibid.*, Appendix B, pp.117-119

while there were minor instances of non-compliance in the remaining campaigns. The report stated that such minor instances provided an early indicator of the need for continued vigilance over compliance against the Guidelines by individual agencies and centrally by the Department of Premier and Cabinet.⁶⁴

The Auditor-General also sought to identify 'better practice' which took into account the suggested criteria for assessing government advertising and marketing originally reported to the Parliament by the Auditor-General in 2002, and contemporary guidelines used domestically and overseas as researched by the Auditor-General's Office. The result was the development of a better practice guide, entitled *Criteria for government-funded publicity activities, September 2006*, and was included as an appendix to the 2006 report.⁶⁵

In comparing the Government Advertising Guidelines with his 'better practice guide', the Auditor-General reported that the government Guidelines '*provide useful high-level guidance for agencies.*' However, he noted that they did not include a need test in order to justify the activity. He stated:⁶⁶

Consideration of purpose and need is particularly important when ensuring that campaigns are not promoting the incumbent government and, therefore, not perceived as being party-political in nature.

The Auditor-General recommended that the government review its Advertising Guidelines to provide more explicit and detailed guidance about the appropriate use of public funds and that government agencies ensure that their advertising and communication activities comply with the Government Advertising Guidelines as part of their approval processes.⁶⁷

4.1.2 Response by Departments

In its response to the Auditor-General's report, the Department of Premier and Cabinet stated that it was committed to reviewing the Government Advertising Guidelines in line with the general direction suggested by the Auditor-General's 'better practice guide.' However, it reserved its right to incorporate in this detailed review of best practice, the considered views of the media, academia, communications practitioners and other governments in Australia and overseas. The response also noted:⁶⁸

Our objective is to ensure that the crucial role played by advertising in helping to achieve vital public policy objectives is not de-valued by ongoing criticism.

The DTF in its response also supported the regular review of government communication standards. However, it considered that a more rigorous process of review than that undertaken by the Auditor-General was needed – one that:⁶⁹

Uses appropriately qualified experts, in consultation with other important stakeholders as part of developing any changes to the guidelines.

⁶⁴ *ibid.*, p.67

⁶⁵ *ibid.*, p.123

⁶⁶ *ibid.*, p.69

⁶⁷ *ibid.*, p.75

⁶⁸ *ibid.*, p.76

⁶⁹ *ibid.*, p.77

The Department of Premier and Cabinet also agreed to develop a compliance program to ensure greater awareness and understanding of, and compliance with, the Government Advertising Guidelines and that the guidelines and pro-forma documentation used by the Government Communications Review Group (GCRG) to assess departmental advertising and communications submissions would be revised to explicitly reflect the requirements of the Guidelines.⁷⁰

4.1.3 Subsequent developments

In its *Report on the 2007-08 Budget Estimates* in September 2007, the Committee stated that it welcomed the Department of Premier and Cabinet's commitment to a review of the Government Advertising Guidelines and recommended that the new guidelines be issued as soon as possible and then reviewed and updated every 4 years.⁷¹

In a response to the Committee's request for follow-up comment on this issue, the Auditor-General gave credit to the present Government for introducing advertising guidelines for government agencies but stated that the Guidelines are mainly focussed on ensuring government communications are effectively used to achieve public policy goals, and not aimed at ensuring that advertising and communications activities are not promoting the incumbent government and therefore not at risk of being perceived as party-political in nature.

He stated that any consultation or research undertaken by the Department in revising the Government Advertising Guidelines must emphasise the distinction between legitimate government advertising and communications activities and those advertising activities which are political in nature and therefore not appropriately funded from public monies.⁷²

In February 2008, the Committee wrote to the Department of Premier and Cabinet seeking a status report concerning:⁷³

- details of the revision of, and enhancements made to, the Government Advertising Guidelines;
- the development of a compliance program to ensure more widespread awareness and understanding of, and compliance with, the current or revised Government Advertising Guidelines; and
- details of any changes to the GCRG guidelines and documentation to specifically reflect the requirements of the Government's Advertising Guidelines.

The Acting Secretary, Department of Premier and Cabinet, responded that the Department had undertaken a review of the Government Advertising Guidelines and contended that they provide explicit and detailed guidance on the appropriate use of public funds. The response also indicated that a meeting of Strategic Communications Directors from all Australian states and territories was expected to discuss the matter at their annual meeting in May 2008 with the Auditor-General's recommendations used as a key reference point for this discussion.⁷⁴

⁷⁰ *ibid.*, p.76

⁷¹ Public Accounts and Estimates Committee, *Report on the 2007-08 Budget Estimates, Part Three*, September 2007, p.109

⁷² Mr D Pearson, Auditor-General, Victorian Auditor-General's Office, letter to the Committee, received, 11 March 2008

⁷³ Mr B Stensholt, Chair, Public Accounts and Estimates Committee, letter to the Committee, received 27 February 2008

⁷⁴ Mr C Eccles, Acting Secretary, Department of Premier and Cabinet, letter to the Committee, received 14 March 2008

In August 2008, the Department of Premier and Cabinet advised that the conclusion of the Commonwealth Communications Directors' meeting in May 2008 was that 'Victoria's current Guidelines are in line with or more advanced than those in other jurisdictions.' However, the Department advised that a revised set of Guidelines is currently being drafted for the Government's consideration.⁷⁵

In relation to the Auditor-General's recommendation of ensuring that all departments and public sector agencies comply with the Government Advertising Guidelines, the Department advised in August 2008, that the new Advertising and Communications Approval Process incorporates a requirement for an authorised officer of the public sector body concerned to certify compliance of the advertising or communications activity with the Government Guidelines on advertising and communications.⁷⁶

4.2 Advertising practices that may raise perceptions of political intent

In his most recent report on government advertising, the Auditor-General included a section on a number of emerging practices surrounding government communications activities which could raise concerns about their intent. These included:⁷⁷

- the use of market research;
- the use of branding;
- the use of authorisations; and
- links to campaign websites.

4.2.1 Auditor-General's findings and recommendations

The Auditor-General concluded that, while the use of these types of government marketing and publicity practices may enhance efficient and effective delivery of information to the community, their use needs to be tempered so that the natural advantage of the incumbent government is not exploited.⁷⁸

The Auditor-General's specific findings in respect to each of the government advertising and marketing practices reviewed are detailed in the following sections.

(a) Use of market research

The Auditor-General noted that in addition to market research conducted in relation to specific campaigns, the government also conducts periodic market research into general community attitudes. The report stated that, while in some respects the focus of this market research was related to public sector services and programs, the research also '*appeared, in part, designed to gauge public perception of the government's performance rather than to identify the public's information needs*'.⁷⁹

⁷⁵ Ms H Silver, Secretary, Department of Premier and Cabinet, letter to the Committee, received 25 August 2008, p.4

⁷⁶ *ibid.*

⁷⁷ Victorian Auditor-General's Office, *Government Advertising*, September 2006, p.70

⁷⁸ *ibid.*, p.75

⁷⁹ *ibid.*, p.71

(b) Use of branding

The Auditor-General noted that branding is increasingly used in public sector advertising and communications throughout Australia. The use of slogans and consistent messaging is used to establish brand loyalty and build an image which is linked to positive messages about performance, credibility and reliability. The Auditor-General concluded that branding can be an efficient and effective communication technique particularly in a climate where there is increased competition between states and internationally for major events and investment. He found that, while the brands used by the government were not political per se, the constant association with slogans aimed at promoting the government or the government's performance provides a direct link with the incumbent government. He stated that:⁸⁰

One effect of this image building process is that the State brand, by association, has become the brand for the incumbent government, rather than for the State. It is our view that this should be avoided in all future campaigns.

(c) Use of authorisations

The Government Advertising Guidelines require that Victorian government advertisements in any electronic form must include “*Authorised by the Victorian Government, Melbourne*” together with the name of every person who speaks in the commercial. The Auditor-General's view, in his report, was that when these authorisations are combined with branding, it can reinforce the link to the government whose programs, services or performance are being communicated.

The Auditor-General found, while there is a legislative requirement that all political broadcasts and election material contain an authorisation to distinguish them from legitimate government communication, there seems to be ‘*no clear reason why all government-funded advertising and communications, particularly that which is primarily of an informational and educative nature, would need an authorisation*’.⁸¹

(d) Links to websites

In his assessment of eight selected advertising campaigns against the Government Advertising Guidelines, the Auditor-General noted that a common item which appeared in the campaigns was a reference to a website enabling access to source data or information in support of the material contained in the advertisement or message. The Auditor-General found that, in some cases, these websites ‘*provided vast quantities of additional material promoting the government's performance*’.⁸²

⁸⁰ *ibid.*, p.73

⁸¹ *ibid.*, p.74

⁸² *ibid.*, p.75

4.2.2 Response by the Departments

The Secretary, Department of Premier and Cabinet, rejected the Auditor-General's finding in respect to use of branding, authorisation tags and market research as follows:⁸³

We note that criticisms relating to the use of branding, authorisation tags and market research are largely based on opinion and not the result of rigorous analysis. We respectfully differ with the Auditor-General on the degree to which these tools and techniques assist the incumbent government, noting that these are areas where there is little in the way of objective evidence to support the interpretation offered.

The Secretary, Department of Innovation, Industry and Regional Development was also critical of the Auditor-General's findings in respect of branding:⁸⁴

The Department of Innovation, Industry and Regional Development (DIIRD) does not agree with the apparent conclusion that has been reached that branding projects such as Brand Victoria become the brand for the incumbent government.

Brand Victoria is specifically developed to be an internationally focused locational brand for Melbourne and Victoria. It was developed in conjunction with external organisations, and will be available for them to use as well. The brand is intended to be a long-term development, in the way that Tourism Victoria's has developed the Jigsaw Brand over more than 10 years (and successive governments).

4.3 Conclusion

There are two main mechanisms by which public sector advertising and communication activities need to be managed. The first is via an adequate system of reporting and disclosure as covered in Chapter 2 of this report. The second is through scrutiny of the material against strict, clear and comprehensive government guidelines and/or regulations, one of the main principles of which should clearly stipulate that government communications activities shall not be conducted for party political purposes. A review of the literature indicates that other countries such as Canada, New Zealand and the United Kingdom all have guidelines in place which prohibit partisan misuse of publicly funded government advertising and publicity.

In Victoria, a significant step forward in regulation of government advertising came in the form of the *Guidelines for Victorian Government Advertising and Communications* issued by the Department of Premier and Cabinet in October 2002. Since this time concerns over publicly funded government advertising campaigns has continued and further recommendations have been made by the Auditor-General and supported by this Committee to revise the Government Advertising Guidelines.

As noted above, the Secretary of the Department of Premier and Cabinet in August 2008 stated that a revised set of guidelines is currently being drafted for consideration by the Government. The Committee looks forward to the finalisation and publication of the revised guidelines. It also agrees with the previous Auditor-General, Ches Baragwanath and the current Auditor-General that such guidelines or conventions to be effective "need to have the support of all political parties represented in Parliament."⁸⁵

⁸³ *ibid.*, p.76

⁸⁴ *ibid.*, p.78

⁸⁵ Mr D Pearson, Auditor-General, Victorian Auditor-General's Office, transcript of evidence, 24 April, p.3

In addition, a review of directions to the Government Advertising Guidelines on the Department of Premier and Cabinet website indicated that the '*Communications toolkit*' on the web, designed to assist staff in the Victorian public sector involved in planning and implementing communications projects, indicated no links to the *Victorian Government Guidelines for Advertising*. It is also considered that, given their importance, the Government Advertising Guidelines could be afforded a higher profile on the Department's website.

The Committee recommends that:

Recommendation 4: **The Department of Premier and Cabinet should conclude its comprehensive review of the *Guidelines for Victorian Government Advertising and Communications* as a priority, with the aim of seeking the support of all political parties represented in Parliament.**

Recommendation 5: **The Department of Premier and Cabinet undertake a review of their *Communications* website to ensure that the revised *Guidelines for Victorian Government Advertising and Communications* are given a prominent point of reference and links to the Guidelines appear adequately throughout the site.**

CHAPTER 5: GOVERNANCE AND OVERSIGHT OF GOVERNMENT ADVERTISING AND COMMUNICATIONS ACTIVITIES

5.1 The role of Cabinet and the Government Communications Review Group

Under the Westminster system of government, Cabinet is the highest decision making body for the government. By virtue of the powers that Members of Parliament accord to Cabinet, it is the body through which the decisions of the Executive are determined. In Victoria, a number of sub-committees and inter-departmental committees assist in the decision-making process. In respect to government advertising and communications activities, the Communications Sub-committee of Cabinet (CSC) and the GCRG are responsible for governance and decision-making arrangements.

The CSC is chaired by the Premier and is responsible for overseeing government advertising and communications activity, providing direction, setting priorities and identifying themes and messages.

The GCRG is chaired by the Director, Strategic Communications in the Department of Premier and Cabinet, and comprises two senior communications staff from departments (on a rotating basis) and two senior staff from the Strategic Communications Branch of the Department of Premier and Cabinet. The GCRG meets monthly and provides the government with a detailed picture of the advertising and communications activities of various departments. Each department provides the Group with a monthly activity report and submissions about proposed advertising and communications activities after the required departmental or ministerial approvals have been obtained.

Within the Department of Premier and Cabinet, the Strategic Communications Branch is responsible for providing integrated communication advice to the Premier and government agencies. The Branch takes a lead role in the development of policies and guidelines and is responsible for the planning and management of major communications related procurement and contract administration.⁸⁶

5.1.1 Auditor-General's findings and recommendations

The Auditor-General examined the governance and oversight arrangements surrounding government advertising and communication activities and concluded that the decision-making arrangements in place provided a clear chain of accountability from departments to government. In particular, he found that the GCRG had improved the internal reporting and visibility of government advertising and communications activities by requiring departments to prepare regular and standardised reporting formats to government. A review of GCRG records indicated that the main focus of the Group's activities was on aligning messages across government departments and coordinating media exposure.

⁸⁶ www.dpc.vic.gov.au, accessed 2 June 2008

However, the audit found that although the Department of Premier and Cabinet advised that the GCRG and the departmental secretary assess campaign material submitted for compliance with the Government Advertising Guidelines, there was no documentary evidence to support this advice. To address this issue, the Auditor-General recommended that the Department of Premier and Cabinet, as chair of the GCRG, ensure that it documents the compliance of campaigns with the relevant government policies and guidelines on government advertising and communications.⁸⁷

5.1.2 Response of the Department of Premier and Cabinet

The Secretary, Department of Premier and Cabinet, agreed with the Auditor-General's recommendation and stated that the GCRG guidelines and pro-forma documentation would be revised to explicitly reflect the requirements of the guidelines.⁸⁸

5.1.3 Subsequent developments

In February 2008, the Committee wrote to the Department of Premier and Cabinet seeking an update in respect of relevant changes to the GCRG assessment of campaigns against government policies and guidelines for advertising and communications.

The Acting Secretary indicated that the Department had amended the GCRG process as of March 2007 to ensure that the Group explicitly consider whether government communication activities are compliant with the Guidelines.⁸⁹

At the Committee hearing, the Department advised that a new approval process is to be implemented from 1 July 2008 whereby the senior communications officers in each department will have the delegated authority to approve media campaigns up to \$50,000. The officer will be required to assess whether the campaign meets government guidelines, whether it is relevant, whether it is necessary and whether the campaign is well considered. Campaigns over \$50,000 will be assessed by the GCRG and it is proposed to implement a more rigorous process which will include a declaration by a senior departmental officer that the application complies with Government Advertising Guidelines. The process will identify the amount of government funds being used, key performance indicators, target audiences, communication objectives and how the campaign will be evaluated. Once the GCRG has reviewed the application, it will then table its recommendation to the CSC for final endorsement. Campaigns of more significant value will be determined at the CSC.⁹⁰

Advice provided by the Auditor-General at the Committee hearing, reiterated that the GCRG documentation reviewed during the audit had not included evidence that "need" and "purpose" had been important considerations in the Group's decision-making and recommendation process. The Committee was advised that the Auditor-General's view is that the GCRG has a role in ensuring some rigour over the information which is being provided to it by government agencies in support of their proposed advertising campaigns.⁹¹

⁸⁷ Victorian Auditor-General's Office, *Government Advertising*, September 2006, pp.106-107

⁸⁸ *ibid.*, p.76

⁸⁹ Mr C Eccles, Acting Secretary, Department of Premier and Cabinet, letter to the Committee, received, 14 March 2008

⁹⁰ Mr T Martin, Director, Strategic Communications Branch, Department of Premier and Cabinet, transcript of evidence, 27 March 2008, pp.10-11

⁹¹ Ms E Holland, Senior Director, Victorian Auditor-General's Office, transcript of evidence, 24 April 2008, p.12

5.1.4 **New Victorian Government Advertising and Communications Approval process**

The Department of Premier and Cabinet advised the Committee, in August 2008, that the new government advertising and approvals process (indicated in the flowchart below) had been endorsed by the CSC in July 2008 and is mandatory for all public sector bodies as defined in the *Public Administration Act 2004*. In addition, the Department advised that the approval submission forms of the GCRG have now been enhanced to include a '*declaration by an authorised officer of the department or entity, certifying compliance of the particular activity with the Victorian Government Guidelines for Advertising and Communications*'.⁹²

Further, the Department advised that an overview document outlining the MAMS and Approval Process arrangements will be published on the DPC website in the coming weeks. The new system for approval of advertising and communications is designed to ensure:⁹³

- *compliance with the Victorian Government Advertising and Communications Guidelines (as requested by the Auditor-General);*
- *effectiveness and efficiency of advertising and communications activities; and*
- *appropriate accountability for and evaluation of advertising and communications.*

The new approval process guidelines, provided to the Committee, specify 4 overriding principles for government advertising and communications activities as follows:⁹⁴

- the proposed communications must comply with the *Victorian Government Guidelines for Advertising and Communications*;
- the application should clearly identify the need for the campaign/activity, its aims and how its effectiveness will be evaluated;
- the proposed strategy must be strategically sound with clear objectives, identified target audience/s, appropriate media options, budget allocation and evaluation plan; and
- a relevant executive officer must be aware of, and support, the application.

Under these guidelines, the CSC has authorised that all advertising and paid communications activities with a media value under \$50,000 can be approved by an authorised officer within the entity. The authorised officer must endorse and certify that the application complies with the *Victorian Government Advertising and Communications Guidelines* and then forward all applications involving campaign advertising to the GCRG Secretariat for assignation of a MAMS Approval Number for verification when booking with the MAMS contractor.

All media expenditure of \$50,000 or greater, will be considered by the GCRG and, if approved-in-principle, be recommended to the CSC for endorsement. The Approval Process guidelines stipulate that '*entities or the GCRG may, at their discretion, refer applications with a media value lower than \$50,000 to the CSC if they consider them sensitive or controversial or otherwise requiring CSC consideration*'.⁹⁵

⁹² Ms H Silver, Secretary, Department of Premier and Cabinet, letter to the Committee, received 25 August 2008, p.3
⁹³ *ibid.*

⁹⁴ Department of Premier and Cabinet, *Victorian Government Advertising and Communications Approval Process*, guidelines dated 25 July 2008, p.1

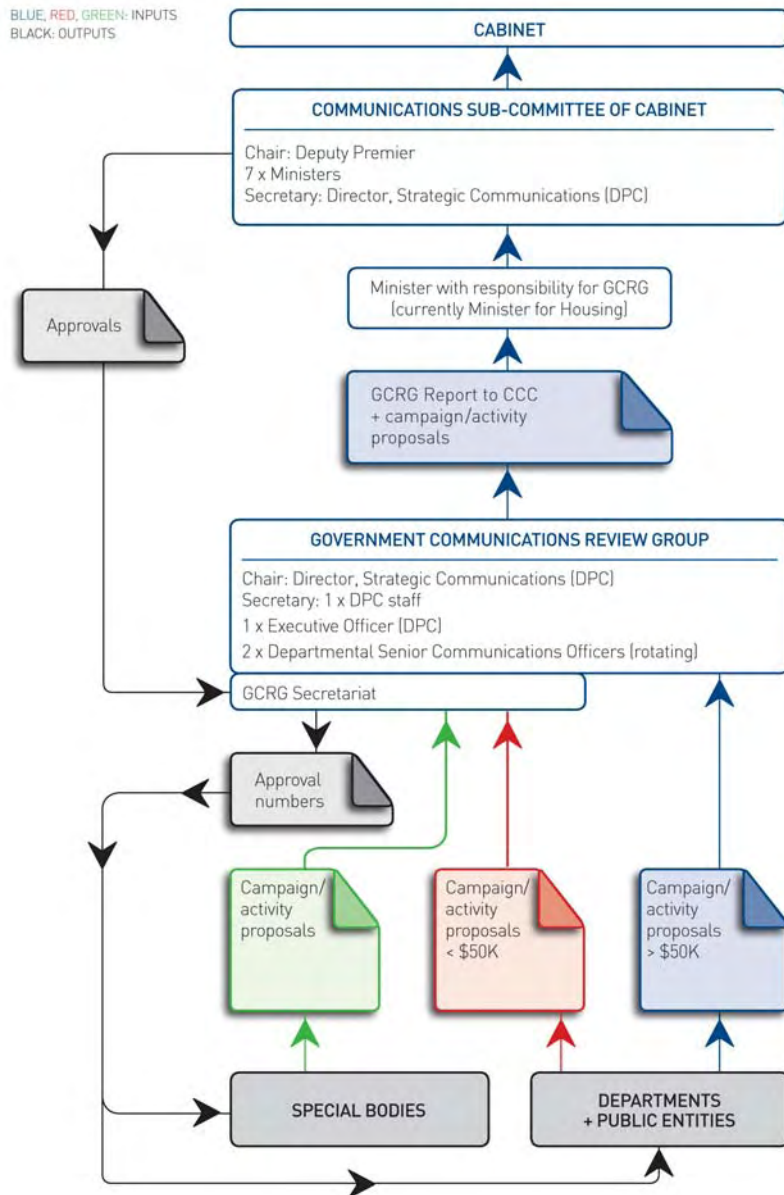
⁹⁵ *ibid.*, p.3

5.1.5 Conclusion

The Committee welcomes the changes made to the government advertising and communications approvals process which aim to introduce more rigour to the process and strengthen compliance and accountability of government entities over this type of expenditure.

The Committee commends the Department of Premier and Cabinet for its actions in strengthening the approvals process to require campaigns to be certified for compliance with Government Advertising Guidelines by a senior officer within the entity undertaking the campaign.

NEW APPROVAL SYSTEM



Source: Department of Premier and Cabinet, August 2008

5.2 Is there a need for independent review of government advertising and communication campaigns?

At the Committee hearing, the Auditor-General advised that in Canada, the Auditor-General of the province of Ontario is required under legislation to review specific types of advertising by government offices before they can be released. Under the legislation:⁹⁶

The item must not be partisan; that is, in the opinion of the Auditor-General, it cannot have as its primary objective the promotion of the partisan political interests of the governing party.

In addition, the legislation allows the Auditor-General to consider additional factors deemed to be appropriate in assessing whether an advertising item is aimed at promoting partisan political interests. At the Committee hearing, the Victorian Auditor-General tabled an extract from the Ontario Auditor-General's Annual Report which lists the statutory requirements and the additional factors used as a guide in assessing advertising material. In determining these additional factors the Auditor-General of Ontario reports that he consulted with Advertising Standards Canada and considered the results of international research on principles for government advertising undertaken by the Victorian Auditor-General's Office. The characteristics are listed as follows:⁹⁷

- *Each item should:*
 - *Contain subject matter relevant to government responsibilities (i.e. direct and substantial responsibilities for the specific matters dealt with in the item);*
 - *Present information objectively, in tone and content, with facts expressed clearly and accurately using unbiased and objective language;*
 - *Emphasise facts and/or explanations, not the political merits of proposals; and*
 - *Enable the audience to distinguish between fact on the one hand and comment, opinion or analysis on the other.*
- *Items should not:*
 - *Use colours, logos and/or slogans commonly associated with any recognised political party in the Legislative Assembly;*
 - *Inappropriately personalise (e.g. by personally attacking opponents or critics);*
 - *Directly or indirectly attack, ridicule or criticise the views, policies or actions of those critical of government;*
 - *Aim primarily at rebutting the arguments of others;*
 - *Intentionally promote, or be perceived as promoting, political-party interests;*
 - *Deliver self-congratulatory or political-party image-building messages;*
 - *Deal with matters such as a policy proposal where no decision has yet been made, unless the item provides a balanced explanation of both the benefits and the disadvantages;*
 - *Present existing policies, products services or activities as if they were new; or*
 - *Use a uniform resource locator (URL) to direct readers, viewers or listeners to a web page or pages with content that may not meet the standards required by the Act.*

⁹⁶ Extract, 2007 Annual Report of the Office of the Auditor-General of Ontario tabled by Mr D Pearson, Victorian Auditor-General's Office, at the Committee hearing, 24 April 2008. p.3

⁹⁷ *ibid.*

At the hearing, the Victorian Auditor-General stated that, in his view, the review of items of government advertising by the Auditor-General before their release compromises the independence of the Auditor-General and places him/her in an Executive role. Specifically:⁹⁸

... it basically puts the auditor in a decision-making role on behalf of the Executive, which to me is not good for the Executive and not good for the Auditor-General. But that is a personal principled view.

The Committee recommended that advertising campaigns valued at \$250,000 or more should be submitted to the Auditor-General for assessment and the Auditor-General would then report back to the department and the relevant portfolio minister, indicating whether the campaign complies with the government's advertising guidelines and the extent of any non-compliance. It would then be up to the department to make the campaign compliant or reject the Auditor-General's assessment. Every six months the Auditor-General would table a report to the Parliament detailing the assessments of campaigns undertaken in the preceding six-month period.⁹⁹

With regard to future scrutiny by the Auditor-General of advertising within the public sector, the Committee recommended in its *Report on the 2007-08 Budget Estimates-Part Three*, that the Auditor-General include, within the scope of performance audits of particular programs, an examination of advertising and communications expenditure and the extent of compliance with the government guidelines.¹⁰⁰ The Auditor-General has responded that this would be considered in future performance audits where appropriate.

The Committee agrees that including the Auditor-General in an executive/decision-making role in the review and approval of government advertising and communication campaigns could adversely impact his independence. As noted previously, the Committee views as a positive development the requirement for advertising campaigns to be audited for compliance with the advertising guidelines.

It is considered, however, that there could be some merit in the Auditor-General undertaking regular reviews, for example every 4 years, of government advertising and communications campaigns over \$500,000 to assess compliance of public sector agencies with the relevant policies, guidelines and procedures as well as the effectiveness of individual campaigns.

The Committee recommends that:

Recommendation 6:

The Auditor-General consider including in its audit program a regular review (e.g. every 4 years) of government advertising and communications campaigns in excess of \$500,000, for compliance with all relevant public sector advertising policies and guidelines and to assess their effectiveness.

⁹⁸ Mr D Pearson, Auditor-General, Victorian Auditor-General's Office, transcript of evidence, 24 April 2008, p.10

⁹⁹ Parliament of Australia: Senate Finance and Public Administration Committee: Inquiry into Government Advertising and Accountability, Executive Summary, 6 December 2005.

¹⁰⁰ Public Accounts and Estimates Committee, *Report on the 2006-07 Budget Estimates, Part Three*, September 2007, p.110

5.3 An overview of Victorian government advertising and communication policies, procedures and guidelines

In his report, the Auditor-General referred to a number of government policies, procedures and guidelines used by the public sector to manage advertising and communication activities such as, the Department of Premier and Cabinet's *Guidelines for Victorian Government Advertising and Communications*; the *Victorian Government Branding Policy*; the contract management plan and rules for using the *Marketing Services Panel*; *Ensuring Openness and Probity in Victorian Government Contracts*; *Best Practice Advice: Probity*; and other procurement policies developed by the VGPB.¹⁰¹

A Committee review of the Department of Premier and Cabinet web-site revealed links to the following list of policies and guidelines relating to government communication activities:¹⁰²

- *Guidelines for Victorian Government Advertising and Communications*;
- *Victorian Government Branding Policy*;
- *Website Guidelines and Standards*;
- *Press and On-line Recruitment Guidelines*;
- *Victorian Government Communication Evaluation Guidelines*;
- *External Communications Access Policy Toolkit*;
- *Regional Communications Policy*;
- *Victorian Government Sponsorship Policy*;
- *Multi-cultural Communications Policy*;
- *Guidelines for using Community Information Billboards*;
- *Marketing Services Panel Guidelines*; and
- *VGPB procurement policies*.

The Department states on the site that:¹⁰³

In order to ensure that its communications are appropriate, effective, cost-efficient and accurate, the Victorian Government has developed a number of policies and guidelines. Government staff involved in communications activities should be aware of these requirements.

¹⁰¹ Victorian Auditor-General's Office, *Government Advertising*, September 2006

¹⁰² www.dpc.vic.gov.au, accessed 15 August 2008

¹⁰³ *ibid.*

5.3.1 Conclusion

While these policies cover a range of requirements in respect to the management of government communications activity, the Committee noted an absence of an overarching Communications Policy for the Victorian Government establishing the core values and principles underpinning government communications and identifying the roles and responsibilities of Ministers, Deputy Ministers, departmental heads, senior communications officers, and key bodies such as Cabinet, the CSC, the GCRG, the Department of Premier and Cabinet, the Market Research Panel, the Marketing Services Panel, the DTF and the VGPPB. Such a policy document could also make reference to the key procedures (relating to the administrative steps to be followed) and guidelines (which provide reference to best practice and assist in the achievement of the values set out in the policy document) covering communications management in the Victorian public sector.

The Committee recommends that:

Recommendation 7:

The Department of Premier and Cabinet consider development of an advertising and communications policy for the State of Victoria which details the core values and principles underpinning public sector advertising and communications activities and outlines the roles and responsibilities of the various participants involved in the governance and decision-making process.

CHAPTER 6: PROCUREMENT OF ADVERTISING AND MARKETING SERVICES

6.1 Marketing Services Panel

In 2003, the DPC established a Market Research Panel (MRP) to provide a broad range of market research services to the Department of Premier and Cabinet, which would also be accessible to other government departments on a voluntary basis. In 2005, the Department introduced the Marketing Services Panel (the Panel) comprising a group of preferred suppliers of advertising and communication services to *'streamline the process for engaging suppliers by pre-qualifying suppliers and eliminating the need for lengthy tender processes for each parcel of work.'*¹⁰⁴

All Victorian government departments are required to use the Panel when engaging the services of advertising agencies and communications suppliers and other government agencies can access the Panel following permission from the Strategic Communications Branch of the Department of Premier and Cabinet.¹⁰⁵

6.1.1 Auditor-General's findings and recommendations

The Auditor-General reviewed the appropriateness of the process followed to establish the Panel and the utilisation of the Panel by government departments but did not review the establishment of the MRP. The audit included an examination of the tender process followed by the Department of Premier and Cabinet to establish the Panel and found that the process followed was *'sound and well-documented'* and was consistent with VGPB requirements.¹⁰⁶

The Auditor-General concluded that the establishment of the Panel resulted in a more streamlined process which reduced administrative time and cost for agencies using the Panel and it also provided a useful mechanism for tracking and monitoring communication expenditure across departments and the whole of government.¹⁰⁷

An examination of the information maintained by the Strategic Communications Branch within the Department of Premier and Cabinet about the extent of usage of the Panel by government agencies and the information on the VGPB contracts publishing system, revealed that the data held by the Strategic Communications Branch was incomplete and the VGPB contracts public disclosure system was also not current or complete due to departments not submitting full and complete information to either the Department and/or the VGPB.

The Auditor-General recommended that the Department improve its processes for monitoring Panel usage and that agencies using the Panel need to ensure that they meet the accountability requirements for disclosing contracts in excess of \$100,000 on the VGPB contracts system, in accordance with the Government's policy statement on *Ensuring Openness and Probity in Victorian Government Contracts* and ensure that procurement practices comply with established procurement requirements so as to demonstrate that value-for-money is achieved.¹⁰⁸

¹⁰⁴ Victorian Auditor-General's Office, *Government Advertising*, September 2006, p.81

¹⁰⁵ *ibid.*, p.83

¹⁰⁶ *ibid.*, p.82 and 84

¹⁰⁷ *ibid.*, p.85

¹⁰⁸ *ibid.*, pp.83-85

6.2 Procurement for the selected campaigns

Individual departments are responsible for ensuring that their procurement of advertising, communications and market research services are transparent and achieve value-for-money and comply with all relevant public sector procurement policies and requirements.¹⁰⁹

6.2.1 Auditor-General's findings and recommendations

The Auditor-General examined the appropriateness of processes followed and compliance with procurement policies by government agencies involved in each of the eight selected campaigns which spanned pre and post Panel's existence. For those campaigns conducted before the establishment of the Panel, the audit assessed compliance with the VGPB tendering policies and for those campaigns following establishment of the Panel, compliance with Panel rules were assessed. Specifically the examination covered:¹¹⁰

- tender specifications;
- tender processes including the method of procurement and evaluation processes;
- contractual arrangements; and
- evaluations of contractor performance.

The Auditor-General found that the departments responsible for the selected campaigns had:¹¹¹

- prepared appropriate specifications outlining the scope of the work required;
- entered into contractual arrangements which provided adequate protection to the State in respect of intellectual property, dispute resolution, professional indemnity and confidentiality; and
- completed evaluations of contractor performance as required under the contract management plan and Panel rules.

With regard to the review of the tender processes undertaken in respect to each campaign, the Auditor-General concluded that a number of arrangements did not comply with the relevant procurement requirements suggesting the need for continuing vigilance over procurement practices. In particular the report noted:¹¹²

- 2 instances on non-compliance with Panel rules;
- One exemption from public tender, obtained after the engagement was made;
- One instance of the absence of a tender evaluation report;
- A number of tender evaluation reports which did not identify the selection panel members;
- One instance where a tender process was not conducted; and
- Instances of non-compliance with approval requirements for engagements in excess of \$100,000.

¹⁰⁹ *ibid.*, pp.85-87

¹¹⁰ *ibid.*, pp.85-86

¹¹¹ *ibid.*, p.87

¹¹² *ibid.*

The Auditor-General recommended that agencies should ensure that procurement practices comply with established procurement requirements to demonstrate that value-for-money is achieved.¹¹³

6.3 Departmental responses

(a) Response by the Department of Premier and Cabinet

The Secretary, Department of Premier and Cabinet, was pleased with the Auditor-General's comments on the merits of the Panel and acknowledged that some improvements could be made to its reporting and administration. The Department accepted the Auditor-General's recommendations in respect to procurement practices.¹¹⁴

(b) Response by the Department of Treasury and Finance

The Secretary, DTF made a number of comments in defence of some of the detailed findings contained in this section of the Auditor-General's report but accepted overall the two recommendations made in respect to improvements in procurement practices stating:¹¹⁵

DTF has processes in place to ensure compliance with the policy on Ensuring Openness and Probity in Victorian Government Contracts...and with Victorian Government Purchasing Board procurement requirements.

(c) Response by the Department of Education and Training

The Secretary, Department of Education and Training stated that the Department already ensures that all contracts with a value in excess of \$100,000 are disclosed on the VGPB contracts public disclosure system and that action had been taken to ensure that staff involved in advertising and communications, are fully aware of established procurement requirements.¹¹⁶

(d) Response by the Department of Justice

The Secretary, Department of Justice stated that the Department would continue to monitor compliance with the VGPB requirements.¹¹⁷

(e) Response by the Department of Human Services

The Secretary, Department of Human Services stated that the Department would comply with all endorsed VGPB guidelines and policies related to purchasing and disclosure of contracts and all other endorsed and established procurement requirements.¹¹⁸

¹¹³ *ibid.*, p.94

¹¹⁴ *ibid.*

¹¹⁵ *ibid.*, pp.95-96

¹¹⁶ *ibid.*, p.96

¹¹⁷ *ibid.*

¹¹⁸ *ibid.*, p.97

(f) Response by the Department of Primary Industries

The Secretary, Department of Primary Industries accepted both of the Auditor-General's recommendations in respect of procurement practices.¹¹⁹

(g) Response by the Department of Sustainability and Environment

The Secretary, Department of Sustainability and Environment stated that it was the Department's view that their campaign followed all the appropriate procurement processes. The Department stated that it would continue to ensure compliance with all government procurement requirements.¹²⁰

6.4 Subsequent developments

The Auditor-General advised the Committee in March 2008 that as most of the agencies had indicated in their responses that they comply with the VGPB requirements and other government procurement guidelines and policies, no further comment was necessary.¹²¹

In response to a request from the Committee for follow-up comments in relation to the Auditor-General's findings and recommendations in this area, the Acting Secretary, Department of Premier and Cabinet advised that the Department would continue to communicate with the DTF and 'Accredited Purchasing Units' to ensure that the VGPB requirements are complied with in respect to disclosure of contracts on the VGPB contracts public disclosure system. Also the Department asked that the Committee note, in respect to promoting and achieving value-for-money in the area of advertising and communication procurement, that it has established the Print Management Contract, Marketing Services Panel, Market Research Panel and the MAMS media planning and buying contract.¹²²

At the Committee audit hearing on 27 March 2008, the Director of the Strategic Communications Branch, within the Department of Premier and Cabinet, advised that '*value-for-money is the overriding principle by which all tenders for marketing services are judged.*'¹²³ In particular, the MAMS contract consolidates government media buying power resulting in lower rates for contract users. The Marketing Services Panel pre-qualifies advertising and communications companies against a series of selection criteria including value-for-money. Once accepted onto the Panel, these companies must then quote competitively against one another for government business which again ensures value-for-money. The Government has recently announced that, from 30 June 2008, the Panel will be determined annually to provide more flexibility and ensure that those companies on the Panel are the best currently available. In this way the Panel will better reflect the fluidity of the advertising industry in terms of recognising new entrants to the market and new innovations in technology and delivery which can provide the government with cost efficiencies.¹²⁴

¹¹⁹ *ibid.*

¹²⁰ *ibid.*

¹²¹ Mr D Pearson, Auditor-General, Victorian Auditor-General's Office, letter to the Committee, received 11 March 2008, p.5

¹²² Mr C Eccles, Acting Secretary, Department of Premier and Cabinet, letter to the Committee, received 14 March 2008, p.3

¹²³ Mr T Martin, Director, Strategic Communications Branch, Department of Premier and Cabinet, transcript of evidence, 27 March 2008, p.12

¹²⁴ *ibid.*, p.12 and p.31

The Committee was further advised that the Print Management Contract was established more recently (May 2007) with the idea of having one central purchasing point for all government printing. A tender was undertaken to select a print broker who has a panel of accredited printers based on certain compliance criteria such as, quality assurance, financial stability and insurance cover. These printers quote on anonymous jobs and the system automatically selects the lowest priced quote. The process ensures that quality criteria have already been met and the lowest price is achieved. It is anticipated that significant savings will be made on printing services through implementation of this contract although no figures are available as yet.

In addition to these initiatives, the Department convenes a monthly meeting of senior communications officers from each of the 10 government departments at which the use of these contracts, aimed at achieving value-for-money, is promoted.¹²⁵

6.5 Conclusion

The Committee notes the positive responses of departments in respect to the Auditor-General's recommendations relating to ensuring compliance with Government procurement policies and guidelines and the initiatives of the Department of Premier and Cabinet aimed at achieving value-for-money in public sector spending on advertising and communication activities.

The Committee recommends that:

Recommendation 8:

The Department of Premier and Cabinet and all accredited purchasing units maintain their diligence over procurement practices to ensure that all relevant government procurement policies and guidelines are complied with to maintain due transparency, probity and value-for-money in the purchase of public sector advertising and marketing services.

¹²⁵ *ibid.*, p.12

CHAPTER 7: EFFECTIVENESS OF GOVERNMENT ADVERTISING CAMPAIGNS

7.1 Background

As noted earlier in this report, the Auditor-General has conducted four audits of government advertising and communications over the past 12 years as follows:

- *Marketing Government Services: Are you being served? – May 1996*: The objective of the audit was to assess whether public sector marketing activities had achieved value-for-money;
- *Advertising and marketing by government departments - June 2002*: The objective of the audit was to determine whether selected material met generally accepted principles for government-funded advertising and promotion;
- *Government Advertising: Management of the Master Agency Media Service Contracts – June 2003*: The audit assessed the adequacy of arrangements established to manage the Master Agency Media Service contracts; and
- *Government Advertising – September 2006*: The main objective of the audit was to determine whether selected public sector advertising campaigns complied with government guidelines and whether processes for managing government advertising activities were adequate. The audit also examined the extent of advertising and communications expenditure, the use of media buying rebates, procurement of campaign services and governance arrangements.

While this report focuses on the Auditor-General's most recent report on *Government Advertising*, references have also been made to previous audits, as noted above, and also to recommendations made by this Committee over the past three years in relation to government advertising and promotional expenditure.

The only audit which has included an assessment of the effectiveness of government advertising and promotional campaigns has been the 1996 report on *Marketing Government Services* which included an evaluation of whether marketing services were effective in terms of achieving objectives. The report noted that value-for-money from marketing services can only be achieved if:¹²⁶

...the resources allocated to marketing are effective in achieving specified objectives and if the activities are cost-effective...

However:

The success of public sector marketing is particularly difficult to evaluate as activities are often focussed on providing information or on changing behaviour. Such outcomes can be intangible or long-term in nature and therefore more complex to measure than in the private sector where product sales or profits are fundamental indicators of marketing effectiveness.

¹²⁶ Victorian Auditor-General's Office, *Marketing Government Services: Are you being served?*, May 1996, Part 5, paragraphs 5.4-5.5

In its *Report on the 2006-07 Financial and Performance Outcomes in May 2008*, the Committee included comment on the importance of departments and agencies reporting on the effectiveness of advertising programs stating:¹²⁷

The magnitude of expenditure incurred in the management of government advertising and promotion programs, ... accentuates the importance of government bodies reporting adequately on the extent to which programs achieve their objectives.

With the aim of ensuring complete transparency and comprehensive reporting in an area of public administration attracting increasing parliamentary and public interest, the Committee recommended that the DTF widen the external reporting obligations of government bodies to include information on the cost of public sector advertising programs and their effectiveness in achieving expected outcomes.¹²⁸

7.1.1 Victorian Government Evaluation Guidelines

As mentioned previously, the Strategic Communications Branch within the Department of Premier and Cabinet has developed a “Communications Toolkit” on its website which is aimed at assisting public sector staff involved in planning and implementing communications projects. The DPC website states that *‘the Victorian Government strongly supports evaluation of communication activities and the market research activities underpinning it.*¹²⁹

The “Communications Toolkit” breaks the communications process into three stages: planning; implementation and evaluation. In respect to evaluation, the ‘toolkit’ states that evaluation is a critical aspect of communications and are aimed at promoting accountability and continuous improvement.

To support the evaluation stage, the Department of Premier and Cabinet has developed the *Victorian Government Communication Evaluation Guidelines* (the Evaluation Guidelines) which recommend the evaluation of all significant communication activities. The Evaluation Guidelines state:¹³⁰

It is an expectation of Government that all significant communications activities will be evaluated, and that the evaluations will be conducted in a professional and objective manner.

The Evaluation Guidelines specify that advertising projects should have clear and achievable objectives, advertising should be evaluated against the original objectives; and evaluation should be planned and budgeted for at the start of the project.

¹²⁷ Public Accounts and Estimates Committee, *Report on the 2006-07 Financial and Performance Outcomes*, May 2008, p.475

¹²⁸ *ibid.*

¹²⁹ www.dpc.vic.gov.au/communications, accessed 13 June 2008

¹³⁰ *Victorian Government Communication Evaluation Guidelines*

7.1.2 Comments on evaluation arising from the Committee hearing

At the Committee hearing with representatives from the Department of Premier and Cabinet, the Committee enquired whether there had been any analysis undertaken of the effectiveness of the government advertising and communications spend through the MAMS contracts. The Department advised that it is government policy that thorough, rigorous and professional evaluation accompanies each and every major activity and referred to the Government Communication Evaluation Guidelines. In addition the Committee was advised that the GCRG require pre-evaluation benchmark testing to be undertaken prior to a campaign's commencement and the establishment of KPIs and measurable targets. Government departments and agencies generally use the services of independent and professional research organisations to provide this work and they are obliged to build this into their total campaign budget. The Department advised that:¹³¹

...at all levels there is a professional level of evaluation and market research done to ensure that we achieve good value-for-money and effectiveness for the government dollars spent.

The Department advised that individual departments and agencies are responsible for the evaluation of their own advertising campaigns and that the final step in the GCRG process requires departments to report back with an evaluation report against the KPIs included in their original application. Further, the results of the post-evaluation in terms of measuring campaign outcomes can inform the development of subsequent government policy. The Committee was advised that in May 2007, subsequent to the Auditor-General's 2006 report on *Government Advertising*, the pro-formas for the GCRG submissions were expanded to make KPIs clearer and more measurable.¹³²

The view of the Auditor-General, at the Committee hearing in April 2008, was that the improvement in the KPIs and post-evaluation requirements of the GCRG, as advised by the Department of Premier and Cabinet, was considered to be a positive step in promoting the public accountability of government agencies.¹³³

7.1.3 Conclusion

The Committee notes the initiatives taken by the Government to promote post campaign evaluation through the development of more relevant and measurable KPIs at the commencement of a campaign and the Communication Evaluation Guidelines as developed by the Department of Premier and Cabinet.

Given the benefits to be obtained in terms of increased public accountability and continuous improvement through post-campaign evaluation, the Committee considers that, while encouraging post-campaign evaluations generally, the Evaluation Guidelines could be strengthened by specifying what is meant by '*significant communications activities*', perhaps in terms of a dollar value, at which post-campaign evaluation becomes mandatory.

In addition to evaluating the achievement of campaign objectives in terms of increased public awareness or changes in behaviour, post-campaign evaluation should also include an assessment of the efficiency and effectiveness of the particular media strategy and/or campaign concepts chosen. It is this qualitative evaluation which can provide valuable input to decisions on the selection of future campaign strategies in terms of past successes and failures.

¹³¹ *Victorian Government Communication Evaluation Guidelines*, tabled by Mr T Martin, Director, Strategic Communications Branch, Department of Premier and Cabinet, Committee hearing, 27 March 2008, p.10

¹³² *ibid.*, pp.25-27

¹³³ Mr D. Pearson, Auditor-General, Victorian Auditor-General's Office, transcript of evidence, 24 April 2008, pp.10-11

In terms of reporting on the effectiveness of government advertising and communications activities, the Committee reiterates the recommendation made in its *Report on the 2006-07 Financial and Performance Outcomes* that the DTF expand the external reporting requirements of government agencies to require that information on the effectiveness of the campaigns in achieving expected outcomes.

The Committee regards reporting on effectiveness against performance indicators to Parliament (performance reporting) as a central task of departments and public sector agencies. In regards to advertising campaigns, the Committee believes that there should be a significant improvement in performance reporting. With over \$100 million spent annually under the MAMS contract, the public have a right to know whether the money spent on advertising campaigns has been effective and provided value for money. The Committee has also recommended recently that the Auditor-General in performance audits of programs should also look at the performance of associated advertising campaigns.

The Committee recommends that:

Recommendation 9: **The Department of Treasury and Finance expand the external reporting obligations of government bodies for public sector advertising campaigns to incorporate an analysis of the effectiveness of advertising campaigns in achieving expected outcomes.**

Recommendation 10: **While encouraging post-campaign evaluations for all advertising and communications projects, the Department of Premier and Cabinet consider revising the *Victorian Government Communication Evaluation Guidelines* to:**

- (a) specify a mandatory level at which post-campaign evaluations must be undertaken; and**
- (b) include a section on evaluating the efficiency and effectiveness of the media strategy or creative concepts chosen for the particular advertising or communication campaign.**

PART B – NEW TICKETING SYSTEM TENDER

CHAPTER 1: THE COMMITTEE'S OVERVIEW OF THE AUDITOR-GENERAL'S REPORT

1.1 Dual objectives of the report

The Auditor-General's report, New Ticketing System (NTS) Tender, along with a *The Good Practice Guide Public Sector Procurement: Turning Principles into Practice*, was tabled in Parliament on 31 October 2007. The report identifies that the following two objectives were established for the NTS audit:¹³⁴

- to determine whether the tender process for the NTS was properly conducted; and
- to identify lessons and relevant areas of good practice for the future management of major tenders.

From the Committee's viewpoint, the setting of these two objectives represented a sound framework for guiding the audit. The dual objectives would be expected to facilitate the reaching of specific independent findings on the quality and effectiveness of the Transport Ticketing Authority's (the Authority) management of the tender, which could then be used as the springboard for formulating constructive suggestions for assisting the management of future tender projects.

The Committee is very supportive of the practice of drawing on the results of audits to explore how lessons learnt can be captured and used to bring about better management approaches in future public sector projects. Such an approach strengthens the contribution made by the Auditor-General to enhancing public accountability and bringing about improvements to public sector performance.

The Committee also welcomes the *Auditor-General's Good Practice Guide* which provides valuable practical guidance on procurement to public sector agencies.

1.1.1 ***The Auditor-General's findings and conclusions on the Authority's performance in the conduct of the NTS tender***

The Auditor-General's report contains three substantive chapters which address:

- governance and planning arrangements for the NTS tender;
- management of the NTS tender; and
- probity of the NTS tender.

In each of these chapters, the Auditor-General outlined key findings arising from the audit examination of the Authority's conduct of the NTS tender. These findings formed the basis for the formulation of subsequent audit conclusions and recommendations. In general, the report was a positive assessment of the conduct of the tender process by the Authority while noting a number of areas with scope for improvements in processes. All eight audit recommendations, as well as an additional four consider points that were included in the Auditor-General's report do not directly apply to the Authority but focus on opportunities to strengthen management of future major tender projects in the public sector.

¹³⁴ Victorian Auditor-General's Report, *New Ticketing System Tender*, October 2007, p.16

In this report, the Committee has summarised the approach used by the Auditor-General in reaching findings and conclusions on the Authority's strategic and operational performance for the NTS tender. The audit findings and conclusions cover the three key areas of governance arrangements, management of the tender process and maintenance of probity, including fairness and procedural integrity. The Committee then analyses the recommendations and consider points that have flowed from those findings and conclusions. It concludes that analysis with formulation of its own recommendations.

The Auditor-General's report contains many favourable assessments of key aspects of the Authority's performance.

On governance, the main positive audit comments related to the conduct of meetings of the Authority's Board which were described as "*consistent with contemporary approaches to corporate governance.*"¹³⁵.

Favourable audit assessments were also made with regard to the Authority's management of the NTS tender. The Authority's actions against six normative criteria for effective tender management and in achieving four high-level tender outcomes were found to be highly effective in most areas.

On the key issue of probity in the NTS tender, audit findings were favourable concerning the Authority's management of conflicts of interest. The Auditor-General's report went to some length in describing the various actions taken by the Authority in identifying and managing real and potential conflicts of interest. The Auditor-General's substantive finding was that the Authority identified conflicts of interest in a timely manner and

*... Audit found no evidence of corruption in the NTS tender, and no evidence that the conflicts of interest led to the unfair or biased treatment of particular tenderers or groups of tenderers."*¹³⁶

With regard to findings critical of the Authority's performance in the audit report, the Auditor-General drew attention to several aspects of the Authority's governance arrangements which give rise to opportunities to strengthen governance approaches in future major tender projects. These opportunities include the size of the governing Board, size and composition of the audit committee, need for care in the involvement of senior managers in the evaluation of tenders and separation of the roles of probity auditor and probity advisor.

Other areas attracting criticism from the Auditor-General included:

- identification of additional management steps the Authority might have taken to address the perceived conflicts of interest associated with the shareholding of its CEO in a company forming part of the successful tender consortia; and
- discretionary attendance by the probity auditor at meetings with tenderers.

The Auditor-General identified a range of issues for future consideration in terms of best practice in the conduct of tenders. These included:

- the need for an Authority's board to be of a sufficient size so that a wide range of skills and perspectives are available (the Authority had a board of only 2 members for most of the tender process);
- the size of the audit committee and the inclusion of external representation and expertise;
- the separation of the roles of probity auditor and probity advisor;

¹³⁵ Victorian Auditor-General's Report, *New Ticketing System Tender*, October 2007, p.26

¹³⁶ *ibid.*, p.64

- the role of the portfolio department in the engagement and remuneration of a probity auditor appointed by the Authority;
- the level of direct access with tenderers and the control of information flows during the tender process; and
- the tender rating system.

In reviewing the audit report on such issues and the subsequent Good Practice Guide, the Committee would have benefited from further analysis by the Auditor-General as well as by the provision of examples that served to reinforce the principles suggested.

1.1.2 Recommendations to strengthen management of future major tender projects in the public sector

The Committee notes that the three principal chapters of the Auditor-General's report have provided normative descriptions of the pre-requisites for strong performance in their subject area.

In several areas of this report, the Committee has drawn attention to the valuable guidance material presented by the Auditor-General. It considers this specific feature of the report and the accompanying Good Practice Guide complement the wide coverage of procurement and tendering guidelines issued by the Department of Treasury and Finance (DTF) and the Victorian Government Purchasing Board (VGPB).

All eight recommendations made by the Auditor-General in the report are future-oriented with seven specifically addressing opportunities to further expand existing procurement and tendering guidelines for future tender projects. The seven recommendations advocate:

- extension of the coverage of procurement guidelines beyond the departmental sector to encompass non-departmental public entities;
- inclusion within tendering guidelines of specific matters, such as the size and composition of the governing Board and its audit committee, to provide greater assurance about the integrity of major tender processes;
- amendment of the existing policy for the conduct of commercial engagements relating to probity auditors to require probity audit and probity advisor functions to be undertaken by separate parties;
- mandatory use by non-departmental public entities of DTF's probity services panel;
- review of existing guidelines to capture lessons learnt from the management of major tenders covering communications with tenderers, changes to the tender process, evaluation of tenders and negotiation and clarification sessions with tenderers;
- review of existing guidelines to provide stronger and more precise guidance for maintaining the probity and integrity of major innovative tenders; and
- physical separation of a tender project team from the location of tenderer meetings for major and complex tenders.

A further recommendation emphasises the importance of regular assessments of the adequacy of the guidelines in reflecting emerging tendering practices.

By their nature, all eight recommendations are primarily directed to DTF as the responsible central agency.

No recommendation focuses solely on the Authority, the managing organisation responsible for the subject of the audit.

The Auditor-General also opted to include four consider points in the audit report which are also pitched at the management of future projects.

The Committee has carefully evaluated each recommendation and consider point submitted by the Auditor-General. Other than one sub-set of a recommendation, the Committee recommends implementation by DTF of all actions advocated by the Auditor-General. It considers that DTF can readily respond to these actions as part of its ongoing process of continually improving the existing guidance material.

The normative guidance on tender management incorporated in the audit report is supplemented by an informative and timely good practice guide on procurement which, as mentioned above, was issued by the Auditor-General shortly after the tabling of the audit report in Parliament.¹³⁷ The Committee considers that the Auditor-General's report and the supporting good practice guide should be mandatory reference sources for all public sector organisations planning to manage a tender project, and particularly major and complex projects likely to adopt innovative and interactive tender approaches.

The Committee therefore recommends that:

Recommendation 1: **The Department of Treasury and Finance ensure that the normative guidance on tender management incorporated in the Auditor-General's report and the supporting good practice guide be mandatory reference sources for tendering bodies planning major tender projects.**

1.2 Impetus for the Auditor-General's audit of the NTS tender

In the Foreword to the audit report, the Auditor-General stated that "...*The NTS tender has been the subject of much public conjecture and community interest...*"¹³⁸

The public conjecture and community interest, referred to by the Auditor-General, arose initially at the time of the Authority's announcement of the successful NTS tenderer in July 2005 when a daily newspaper published information relating to competing tenderers and alleged that documents had been leaked. Because of these circumstances and continuing high public interest associated with introduction of a new "smartcard" ticketing facility for the public transport system, including its estimated cost and planned timing, the NTS tender remained a strong media topic over the period subsequent to the awarding of the contract.

In December 2007, several months after the tabling of the Auditor-General's report in Parliament, media attention to the NTS tender process again reached a high level with the publication in a daily newspaper of extracts from what was described as a draft report prepared by investigative staff of the Auditor-General. Several media articles at the time alleged that critical information contained in alleged draft material had been improperly deleted when finalising the report tabled in Parliament.

At the Committee's public hearings, the Auditor-General made a detailed presentation to the Committee on the status of audit working documents that had been seen by the daily newspaper.¹³⁹

¹³⁷ Victorian Auditor-General's Office, *Public Sector Procurement: Turning Principles into Practice*, October 2007

¹³⁸ Victorian Auditor-General's Report, New Ticketing System Tender, October 2007, Foreword, p.v

As part of this presentation, the Auditor-General provided an outline of the nature of an audit, the best practice audit methodology applied by the Victorian Auditor-General's Office (VAGO) and the stringent approach required by professional auditing standards for ensuring sufficient and appropriate evidence fully substantiates audit findings.

On the media allegations that were supposedly based on confidential draft audit working documents, the Auditor-General made the following pertinent comments:¹⁴⁰

I mention all of these things because I want to make it absolutely clear that in conducting an audit my office follows a rigorous methodology that represents best practice. It was by following our methodology that we were able to establish that evidence did not support some of the initial allegations made or some of the preliminary findings and hypotheses of the investigation team. To contemplate that I would leave significant negative findings out of a report to Parliament is, aside from being wrong, an affront which I indignantly reject. I can only hope that these allegations arose from ignorance and not malice. The institution of audit and the integrity of accountability processes in Victoria are too important to be trivialised or used for short-term opportunities.

As part of his presentation at the public hearing, the Auditor-General described the impetus for the audit of the NTS tender. The Auditor-General advised the Committee as follows:¹⁴¹

...My office's interest in the new ticketing system matter began as an investigation into a suspected leak of confidential tender documentation. That investigation was requested by the then Minister for Transport. This information was provided to a Herald Sun journalist and the state opposition in July 2005.

It was during this investigation that certain parties we spoke to made a series of allegations about the conduct of the tender process. Largely due to these allegations, I decided of my own volition to conduct a performance audit of the tender process. This followed on from our investigation of the leaked documents. This, however, created an unusual starting point for the work of the office. Normally we begin by going through documents, phone records, taped meetings, conducting interviews et cetera to identify areas of concern. In this particular case we began with a list of allegations. It was important that we bore these allegations in mind. Equally, however, it was important that we approached the audit objectively and were not prejudiced or misled by these allegations.

Following his presentation, the Auditor-General tabled, with the Committee's consent, a list of 12 "principal discrepancies" which related to the key media claims concerning the alleged removal of information from a draft audit report. The tabled material included the evidential documents which formed the basis of the Auditor-General's assessment of these claims. The Auditor-General advised the Committee that the Authority had agreed to the tabling to the Committee of the documents belonging to it.

¹³⁹ Mr D Pearson, Victorian Auditor-General, transcript of evidence, 25 March 2008, pp.2-5

¹⁴⁰ *ibid.*, pp.4-5

¹⁴¹ *ibid.*, p.3

The Committee was then provided with detailed commentary on the nature of the evidential documents and the consequential reasons why each of the 12 claimed discrepancies could not be substantiated.¹⁴² The 12 items were:

- the bid fee for the tender;
- cost of the NTS project;
- a trip to Washington by the Authority's Chief Executive Officer (CEO);
- the successful tenderer allegedly knew the result of the tender in advance;
- elimination of the bid from a particular prospective tenderer;
- whether and how the Authority had the power to eliminate that particular prospective tenderer;
- consultancy work for the Authority undertaken by the successful tenderer;
- changes to the tender process that allegedly assisted the successful tenderer;
- alleged backdating of a probity plan document;
- alleged failure of the authority to manage conflicts of interest;
- alleged leak of confidential information; and
- a memory stick of the Authority left behind on an overseas trip which allegedly contained confidential tender information.

The Committee considers that the information addressed under each of the above 12 discrepancies clarified the nature of the evidence available to the Auditor-General in determining the substantiation or otherwise of the underlying media claims. After careful consideration of this information, the Committee accepts the respective decisions reached by the Auditor-General. It expresses its continuing confidence in the integrity and professionalism of the work of the Auditor-General.

In a written response to questions raised by the Committee prior to the public hearing on the timing and cost of NTS investigations leading up to commencement of the subsequent audit, the Auditor-General stated that the estimated cost of the audit investigation of the initial alleged leak of information was \$220,000. The Auditor-General indicated that the final cost of all investigatory work pertaining to the NTS tender, encompassing the subsequent allegations raised with VAGO, was \$696,000.

The Auditor-General also advised that the cost of the performance audit of the NTS tender was an additional \$298,000, giving an aggregate cost of just under \$1 million for the two investigations and the audit.¹⁴³

The report on the NTS tender tabled in Parliament contained a summary, in its Appendix B, of the background and result of the Auditor-General's investigation of the initial alleged leak of information.

The Committee notes that the Auditor-General expanded the range of VAGO's investigatory tasks and ultimately conducted a performance audit of the NTS tender. As with all audit investigatory work which might deal with serious allegations which need assessment by the Auditor-General, the reporting of the independent assessment by the Auditor-General of all significant matters helps to ensure the completeness of information communicated to Parliament.

¹⁴² Mr S Kells, Assistant Auditor-General, transcript of evidence, 25 March 2008, pp.6-11

¹⁴³ Mr D Pearson, Auditor-General, response to the Committee received 12 March 2008, p.1

The Committee further notes that in regard to this report the Auditor-General saw no need to include in his evidence-based report details of any unsubstantiated allegations. The Committee agrees that such is a matter of judgement for the Auditor-General. However, it believes that the Auditor-General should provide, where appropriate, information on the impetus for additional investigatory work, especially where it leads to a performance review.

The Committee advocates an audit approach predicated on the principle of full reporting to Parliament for all future investigatory work conducted by the Auditor-General.

The Committee therefore recommends that:

Recommendation 2: **The Auditor-General consider including information on the impetus for investigatory work in reports to Parliament, especially where the outcome of such work is a performance audit.**

1.3 Scope of follow-up to audit of NTS tender

The Committee's review of the findings and recommendations in the Auditor-General's report focussed solely on the subject matter of that report, namely the NTS tender process. The ambit of the Committee's public hearings forming part of its review was similarly focussed.

As outlined in this report, the Committee was informed by the Authority during the public hearings on how the interactive tender process established for the NTS and its innovative open architecture and outcomes-focussed features were directed towards delivering value for money. The Auditor-General commented favourably on these characteristics of the NTS tender approach in the audit report and concluded that the "*design of the tender is likely to have assisted the goal of achieving value for money from the tender.*"¹⁴⁴

Also relevant were the following reasons cited by the Authority's evaluation committee (responsible for submitting a recommendation to the Board on the tender contract) for determining that the offer of the successful tenderer represented best value for money:¹⁴⁵

- *materially better equipment, with advantages for customer and operator acceptance*
- *lower risk of late delivery*
- *a more flexible technical solution*
- *greater likelihood of smooth transition to the new ticketing system.*

The Committee also noted that the Authority in conducting the tender sought to ensure a wide range of bids were submitted rather than a limited number.

Matters that went beyond the core NTS tender process, such as post-tender developments and experiences, were not subject to the Committee's scrutiny during this review.

¹⁴⁴ Victorian Auditor-General's Report, *New Ticketing System Tender*, October 2007, p.53

¹⁴⁵ *ibid.*, p.47

CHAPTER 2: GOVERNANCE AND PLANNING ARRANGEMENTS FOR THE NTS TENDER

2.1 Importance of a sound approach to governance and planning in the management of tenders

Chapter 3 of the Auditor-General's report addresses governance and planning issues pertaining to the NTS tender. In introductory comments to the chapter, the Auditor-General emphasised the importance of a sound approach to governance and planning in the management of tenders. The Auditor-General identified that:¹⁴⁶

Sound governance and planning are necessary to give Parliament and the community confidence that tenders are properly conducted. Poor governance arrangements and inadequate planning can cause a tender to fail, whether it be with respect to the timeliness of the procurement, the integrity of the tender process or the achievement of value for money. Any failure can have further consequences for an agency including failure to deliver goods or services to an agreed standard, and additional costs if the selected provider fails to perform.

The Committee concurs with the key message communicated by the Auditor-General in these comments. Given the significance of the NTS tender, many of the issues addressed by the Committee during this review, including matters raised at its public hearings, focused on the soundness of governance arrangements established for the tender project.

2.2 Governance arrangements for the NTS tender

The Auditor-General's report described the key features of a well-structured governance framework for a tender project.¹⁴⁷ These features include the institutional form and role of the tendering authority, the size and composition of the tendering authority's Board, the Board's policies and procedures and the committees that support the Board in its work. In describing these key elements, the Auditor-General stressed the importance of clarity in role allocation as underpinning operational efficiency and accountability for performance.

2.2.1 Governance structures and roles established for the NTS tender

The Auditor-General's description of the specific characteristics of the NTS governance framework identified that:¹⁴⁸

- the Authority is a public entity established under the *State Owned Enterprises Act 1992* which reported to both the Minister for Transport and the Treasurer;
- the former Department of Infrastructure and the DTF supported the respective Ministers in the performance of their responsibilities during the tender process;

¹⁴⁶ Victorian Auditor-General's Report, *New Ticketing System Tender*, October 2007, p.21

¹⁴⁷ *ibid.*

¹⁴⁸ *ibid.*, pp.21-25

- the Authority's Board (which comprised three directors at the time of the Auditor-General's report) consisted of two directors for the bulk of the tender period;
- the two members of the Authority's audit committee at the time of the NTS tender were the two directors of the Board;
- a stakeholder forum and a government advisory committee were established to support the governance structure;
- an evaluation committee, which submitted recommendations to the Board for approval and was chaired by the Authority's CEO, comprised of senior executives of the Authority and representatives of the two portfolio departments, and was assisted by five advisory teams;
- the Authority engaged a probity auditor who also carried out the role of a probity advisor (to assist readers, the Auditor-General's report provides a summary of the respective roles and responsibilities of probity auditors and probity advisors); and
- the Authority created a negotiation team to manage negotiations with shortlisted tenderers (the Auditor-General's report discusses this team in its chapter 4 on *Management of the NTS tender* – see chapter 3 of this report).

This outline of the governance structure for the NTS tender provided the basis for the Auditor-General's reported findings, conclusion and recommendations on governance.

2.3 Findings of the Auditor-General on governance

The Auditor-General's report addressed findings pertaining to governance under the following six headings:¹⁴⁹

- Board oversight of the NTS tender;
- Audit committee;
- Role of senior Authority management in the evaluation of tenders;
- Probity auditor and probity advisor roles;
- Government probity services panel; and
- Procurement guidelines' coverage of public entities.

2.3.1 Board and audit committee oversight of the NTS tender

The responsibility of the Authority's Board to achieve strong governance in the NTS tender and contribute to a successful outcome was reinforced in the Auditor-General's report with the comment that the size of the tender project and its importance to the Authority's legislated mandate demanded a high degree of Board oversight.¹⁵⁰ The Auditor-General's evaluative views on the calibre of this oversight identified that the Board met nine times during the almost twelve month period between the release of the Request for Tender and its recommendation of the successful tenderer.

¹⁴⁹ Victorian Auditor-General's Report, *New Ticketing System Tender*, October 2007, pp.26-31

¹⁵⁰ *ibid.*, p.26

The Auditor-General's substantive finding on Board meetings was that the conduct of meetings and out-of session briefings and approvals was “*consistent with contemporary approaches to corporate governance*”.¹⁵¹

The Auditor-General also commented specifically on the size of the Authority's Board, comprising only two directors during most of the tender period, notwithstanding a statutory limit of five. The Auditor-General stated that “... *Given the size and complexity of the tender, a larger Board closer to the statutory limit of five was warranted*”.¹⁵²

Through a useful tabular presentation on Board numbers, the Auditor-General pointed out that other Victorian public entities managing large tenders or major projects “... *typically had much larger Boards with a wider range of perspectives and skills.*”

On the role of the audit committee, the Auditor-General reported:¹⁵³

The Authority's audit committee comprised the two inaugural Board members. A larger Audit Committee, with at least one external member, would have provided a higher degree of assurance about the Authority's governance, compliance and performance.

The Committee strongly supports larger and more representative Boards as well as external participation in public sector audit committees to bring an independent perspective to their deliberations. As cited by the Auditor-General, such arrangements provide strong assurance about organisational governance, compliance and performance.

The Committee recommends that:

Recommendation 3: **The Treasurer write to all Boards of public entities recommending that their membership be at least half of the statutory limit at all times and be representative of a wide range of skills and perspectives, particularly when the entity is undertaking a major tender.**

2.3.2 Role of senior Authority management in the evaluation of tenders

The Auditor-General drew attention in the audit report to the involvement of senior Authority managers as members of the evaluation committee and one or more advisory teams.¹⁵⁴ The Auditor-General cited as examples:

- the Authority's CEO as chair of the evaluation committee and a member of an advisory team; and
- the Senior Project Manager as a member of the evaluation committee and four of the five advisory teams.

¹⁵¹ ibid.

¹⁵² ibid.

¹⁵³ ibid., p.27

¹⁵⁴ Victorian Auditor-General's Report, *New Ticketing System Tender*, October 2007, p.27

The Auditor-General noted that the project's accountability arrangements would have been strengthened if the CEO had not been on the advisory team and if the Senior Project Manager was involved in either the evaluation committee or the advisory teams but not both.

The Auditor-General acknowledged views expressed to the audit team by the Authority that specific expertise in smartcard ticketing resided in its CEO and certain senior managers which, subject to strong probity and other independent scrutiny, necessitated greater 'hands-on' input to the technical dimensions of the evaluation process.

The Committee supports the comments of the Auditor-General on the matters raised under this heading.

2.3.3 Probity Auditor and Probity Advisor roles

The Auditor-General reported that the role of a probity advisor is to establish and manage the probity approach while that of the probity auditor is to independently review the nature and conduct of the probity approach.¹⁵⁵ The two roles were combined in the NTS tender.

The audit report identified that the Authority sought advice from DTF early in the tender process (October 2004) on probity roles. This advice, referred to in the audit report, did not definitively preclude the combining of probity auditor and advisor roles, and reinforced the discretionary position of the tendering body to determine the most appropriate probity arrangement.

The Auditor-General expressed the view that combining the two roles of probity auditor and probity advisor "*confuses the allocation of roles and weakens the perception of independence.*"¹⁵⁶ The Committee supports this view, particularly for large and complex tender projects.

The Auditor-General further found that, had the NTS probity auditor fulfilled a separate and independent function to that of probity advisor, the probity auditor would have been in a stronger position to independently investigate the alleged leak of tender information.¹⁵⁷ Appendix B to the Auditor-General's report summarised, with no critical comment, the steps undertaken by the probity auditor in investigating the alleged leak. In commentary later in the audit report on the NTS tender probity arrangements, the Auditor-General stated that "*Audit made no adverse findings in relation to the capability and conduct of the NTS Probity Auditor.*"¹⁵⁸

In addition to the above finding, the Auditor-General reported that the probity auditor was appointed and remunerated by the Authority. The Auditor-General found that the independence of the probity auditor would have been strengthened if the probity auditor had been engaged by the former Department of Infrastructure and reported to the Secretary of that Department as well as to the Board of the Authority.¹⁵⁹ However, the Auditor-General did not provide evidence in the report of any specific impairments to the probity auditor's independence identified as arising from the position's direct relationship with the Authority. The Committee would have welcomed any such information being included in the report.

¹⁵⁵ *ibid.*

¹⁵⁶ *ibid.*, p.29

¹⁵⁷ *ibid.*

¹⁵⁸ *ibid.*, p.30

¹⁵⁹ Victorian Auditor-General's Report, *New Ticketing System Tender*, October 2007, p.29

The Committee supports the view expressed by the Auditor-General that combining the two roles of probity auditor and probity advisor confuses the allocation of those roles and weakens the perception of independence. It sees an arm's length separation of advisory and audit functions in major tender projects as critical to ensuring that all interested parties, Parliament, Government and the community, can be assured as to the integrity and soundness of the management of procurement and tendering processes. It considers that procurement and tendering guidelines applicable to all major projects in the public sector should definitively preclude the combining of probity auditor and advisor roles.

The Committee does not support the second element of the Auditor-General's finding concerning the direct involvement of the portfolio department in the engagement and initial remuneration of a probity auditor in major tender projects managed by statutory authorities. The Committee shares the views expressed by DTF, the Authority and the former Department of Infrastructure¹⁶⁰ on the importance of a clear allocation of responsibility and accountability in major projects. It agrees that direct participation of Departments in the reaching of key decisions on probity matters involving projects undertaken by statutory bodies (who have their own governing boards) would undermine the pivotal management position of those bodies and adversely confuse their accountability obligations.

The Committee recommends that:

Recommendation 4: The Department of Treasury and Finance amend procurement and tendering guidelines to preclude the combining of probity advisor and probity auditor roles in all major projects in the public sector

2.3.4 *Government probity services panel*

The Auditor-General identified that DTF established a panel of contractors in 2002 to provide probity audit services for government entities managing major capital projects. At the date of the audit report, the panel comprised 11 probity auditors from seven firms. The Auditor-General reported that, while use of the panel is not mandatory for non-departmental bodies (such as the Authority), DTF encouraged use of the panel by all government entities.¹⁶¹

The Auditor-General cited the benefits of the panel as making available appropriately skilled and qualified practitioners as well as facilitating economies of scale, consistency in approaches and simplicity in engagement procedures.

For the NTS tender, the Auditor-General stated that the Authority opted to engage its own probity auditor, which it was permitted to do. The Auditor-General pointed out the Authority selected its probity auditor on the basis of demonstrated expertise and capability, availability and value for money. Also, as previously mentioned, the audit report expressly stated that no adverse findings were reached in relation to the capability and conduct of the NTS probity auditor.

The Auditor-General's core findings under this heading were future-oriented in that they pointed to the desirability of extension of use of the government probity services panel to all major tenders undertaken by public entities and of this action coinciding with a review of the panel's membership to give suitable firms an opportunity to join. The Committee is supportive of this finding.

¹⁶⁰ Response from the Department of Infrastructure to the Committee, received 11 march 2008, p.1
¹⁶¹ *ibid.*, p.30

While recognising the views expressed by DTF on preserving the operational responsibility and accountability of non-departmental entities, which were important issues in the consideration of the preceding recommendation, the Committee is persuaded by the argument presented by the Auditor-General on extension of the use of the probity services panel to all public sector bodies.

The Committee considers that introduction of a requirement for the governing boards of statutory bodies to utilise the panel as part of their process for selection of a probity auditor would not necessarily impinge on their ambit of responsibility or their accountability obligations. The boards would still control the selection process but would have the added benefit of drawing from a field of practitioners who had met specific criteria relating to qualifications and experience in this field. The meeting of such criteria would satisfy public expectations for consistency of approach and use of accredited service providers.

At the public hearing, DTF advised the Committee of the limited size of the market for probity auditors and explained that:¹⁶²

Because it is not a deep market you do not necessarily have tens of people on your panel and often advisers or auditors are conflicted because of relationships that they have with tendering organisations et cetera, so the panel can get quite small in some circumstances.

The Committee regards this important point raised by DTF as a further factor reinforcing the advantage of extending use of the probity services panel to all public sector entities. Community confidence in the appointment process would be strengthened through such action. The Committee also supports the Auditor-General's recommendation that amendment of the current policy to make use of the panel mandatory across the public sector be accompanied by a review of the panel's membership to ensure all suitable practitioners have the opportunity to join. Such reviews should be undertaken on a structured and regular basis.

The Committee recommends that:

Recommendation 5: **The Department of Treasury and Finance take action that makes use of the probity services panel mandatory for all public sector entities, and undertake regular reviews of the panel's membership.**

2.3.5 Procurement guidelines' coverage of public entities

The Auditor-General's report stated that tendering guidelines issued by the Minister for Finance, DTF and the VGPB are not mandatory for the Authority, as a non-departmental public entity established under the *State Owned Enterprises Act 1992*. The Auditor-General identified the Authority did not formally benchmark its purchasing policies against the VGPB guidelines, a requirement under government policy.¹⁶³ However, the Auditor-General found the Authority had adequate policies and procedures in place to ensure compliance with the guidelines and it made a deliberate decision to act as though it was covered by the guidelines. The Auditor-General also found, from a future perspective, there is scope to widen coverage of the government's procurement guidelines to public entities outside the departmental sector such as the Authority and

¹⁶² Mr J. Fitzgerald, Deputy Secretary, Department of Treasury and Finance, transcript of evidence, 26 March 2008, p.12

¹⁶³ Victorian Auditor-General's Office, *New Ticketing System Tender*, October 2007, p.30

other special-purpose public bodies, and ensure such coverage is adequately understood. The Committee concurs with this finding.

The Committee recommends that:

Recommendation 6: **The Department of Treasury and Finance widen application of procurement and tendering guidelines to encompass all major tenders managed by non-departmental public bodies.**

2.3.6 *Biennial reviews of guidance material*

The Auditor-General also recommended biennial reviews of tender guidance material:¹⁶⁴

To keep up with new developments in tendering, DTF should review biennially the applicable guidance materials for major tenders, including those materials relating to the governance and planning of major tenders.

DTF's response to the recommendation, as included in the Auditor-General's report, was:¹⁶⁵

DTF regularly reviews its published guidelines on the governance and planning of major tenders. DTF notes that any future reviews will be on no less than a biennial basis.

The Committee sought further comment from DTF on this recommendation. DTF responded in the following terms:

The Gateway Initiative Lifecycle Guidance issued by DTF is being progressively developed and regularly updated to reflect best practice, lessons learnt and government policy developments.

The current Business Case Guidelines, initially released in August 2003, have been updated in April 2005 and December 2006 and are currently under revision. Other guidelines were released for Project tendering in May 2007 and the Procurement Strategy in July 2007. Lifecycle guidelines for later phases are currently being developed along with guidance on risk management, which is being prepared in response to a need identified through the Gateway review process.

These and other reference materials are accessible on the DTF website.

The Auditor-General's recommendation focuses on the importance of ensuring that guidance material available in the public sector for the management of major tenders is subject to continuous review and improvement. The Committee supports this recommendation and welcomes the assurance provided by DTF that future reviews will be on no less than a biennial basis.

¹⁶⁴ Victorian Auditor-General's Office, *New Ticketing System Tender*, October 2007, p.32

¹⁶⁵ *ibid.*, p.13

The Committee recommends that:

Recommendation 7: **The Department of Treasury and Finance establish and adhere to biennial review dates for all guidance material pertaining to the management of major tenders.**

2.4 Planning the NTS tender

The Auditor-General's report describes the following five key steps required for the development of a sound tender planning framework:¹⁶⁶

- developing a business plan;
- market soundings and market analysis;
- developing a tender strategy;
- establishing the procurement process; and
- risk assessment.

The report then summarises the actions taken by the Authority during the planning phase of the NTS tender. This summary includes the Authority's preliminary planning tasks and steps taken by it in establishing the project and preparing detailed planning documents. The Auditor-General also stated that the Authority's planning for the NTS tender was completed before the initial targeted date for the close of tenders.

2.4.1 Findings of the Auditor-General on tender planning

On tender planning for the NTS tender, the Auditor-General found:¹⁶⁷

The essential plans, processes and administrative arrangements were all in place when the NTS tender commenced. Particular areas of good practice included the degree of expert advice sought, the probity plan and its related protocols, and the process of conducting market soundings.

No conclusions or recommendations on planning for the NTS tender were reached by the Auditor-General. However, the Auditor-General did identify the following two important questions concerning the adequacy of tender planning:

- whether the planned approach was robust enough to all reasonably foreseeable contingencies, including the receipt of initial offers that were of poor quality; and
- whether the planned probity arrangements were appropriately applied.

These two matters were addressed in the Auditor-General's report in chapters 4 and 5 respectively. The Committee's commentary on the two issues is presented in chapters 3 and 4 respectively of this report.

¹⁶⁶ Victorian Auditor-General's Office, *New Ticketing System Tender*, October 2007, p.33

¹⁶⁷ *ibid.*, p.35

CHAPTER 3: MANAGEMENT OF THE NTS TENDER

3.1 Key elements of tender management

Chapter 4 of the Auditor-General's report addresses the Authority's management of the NTS tender.

The Auditor-General's introductory comments in the chapter comprised an outline and description of the following six desirable elements for tender management:¹⁶⁸

- resourcing and administration of the tender process;
- informing tenderers about the requirements and the process;
- managing changes to the tender process and requirements;
- tender evaluation including a capability assessment of tenderers and a price assessment;
- negotiation and clarification; and
- documentation of the tender process.

The Auditor-General's coverage of these elements includes comprehensive descriptions of actions required under each key element by a tendering body. The Committee considers the material reported by the Auditor-General represents valuable guidance on the normative features of sound tender management in the public sector.

3.2 The Authority's approach to tender management

The Auditor-General's outline of the key features of effective tender management, as mentioned above, was followed in the report with a description of various aspects of the Authority's management approach for the NTS tender.

3.2.1 Rationale and objectives of NTS tender process

The Auditor-General identified that most of the ticketing systems acquired around the world have involved a long-term contract for the supply of a proprietary system. The technical constraints associated with this position influenced the Authority to develop a procurement strategy aimed at:¹⁶⁹

- breaking the system into a number of separate components; and
- establishing a system where component parts were interchangeable through the use of open architecture.

¹⁶⁸ Victorian Auditor-General's Office, *New Ticketing System Tender*, October 2007, pp.38-42

¹⁶⁹ *ibid.*, p.43

The Auditor-General identified that this approach was intended to allow tenderers to assemble a consortium of partners and equipment suppliers that would best meet the NTS requirements, and to enable the Authority to change equipment or suppliers during the contract period, if needed.

During the hearings, the Committee sought from the Authority information on how the interactive tender process and its open architecture nature were directed towards delivering value for money. The Committee was advised that:¹⁷⁰

Through innovation and by using an open-architecture approach it made sure that the state government would not be captive to one supplier for years to come. It also meant that the state would not be captive to a proprietary system which would lock us into expensive technology that could not grow and improve over time. Again, a characteristic of many systems in the past where you have been locked into one supplier. By using open architecture, the tender process sought to open up the market and overcome technical barriers to tenders incorporating the best and most competitive equipment and software suppliers in their offers.

The whole procurement process for the NTS was very much customer driven. We were not technology driven. ...we structured the tender process to allow the position that not one supplier would have the best solution for all elements of a complex system....The open architecture element of that was a breakthrough, frankly, in this industry....Really open architecture is a common protocol which allows devices from different manufacturers to talk together. That way we can have potentially suppliers from two, three, five, eight different companies all being able to talk in an integrated fashion with the back office. We do have increased competition from most suppliers, we still have an integrated system and we will still be able to drive that competitive tension and value for money through the full tendering process.

A further element of the Authority's rationale and objectives for the NTS tender mentioned by the Auditor-General included a focus in project specifications on outputs rather than inputs. The Auditor-General indicated this approach was intended to give tenderers a greater level of flexibility in how they proposed to achieve the Authority's stated objectives. It also sought to leverage the expertise, creativity and experience of tenderers, and encourage innovation and enhanced value for money.

The Auditor-General also identified the four high-level objectives that were set out in the Authority's Request for Tender, namely high levels of performance, timeliness and smooth transition, systems flexibility and value for money.

3.2.2 Market soundings

The Auditor-General reported that the Authority conducted market soundings in January and May 2004. These soundings addressed procurement strategy options and sought indirect input from the market on other innovative solutions and implications for system commercial rights as well as assisting in generating market interest in the project.

¹⁷⁰ Mr V. Miners, Former Chief Executive, Transport Ticketing Authority, transcript of evidence, 2 April 2008, pp.4, 9-10

At the hearings, the Committee was informed that:¹⁷¹

Importantly for this project, and for lessons for future procurement, it was not just a communication process that the TTA went through. They actually used the market soundings to develop the procurement model and to get assurance that the market would understand and accept the procurement model. As I said before, getting participation in these tenders is absolutely essential to getting value for money, because it encourages competition. So in our view the market soundings were an effective way of developing a procurement model that emphasised value for money.

The Auditor-General commented that, in the May 2004 market soundings, the Authority received favourable feedback from participants to its proposed financing and procurement approach.

3.2.3 Registration of interest and provision of initial offers

Under this heading, the Auditor-General described the procedures followed by the Authority for the registration of interest by potential tenderers and the assessment of initial offers. Matters covered by the Auditor-General included:¹⁷²

- the application of a \$25 000 fee for potential tenderers to register an interest;
- receipt of ten separate initial offers from six tenderers with all assessed as low quality and non-conforming; and
- a decision to move to a revised offer phase and invite revised whole-of-solution offers from four tenderers rather than select and negotiate with one or more preferred tenderers.

All four remaining tenderers were required to sign commitment deeds under which they were obligated to resolve deficiencies in their initial offers.

3.2.4 Benchmark testing, revised offers and negotiation stage

The Auditor-General reported that, prior to submitting revised offers, the four remaining tenderers successfully met 60 benchmark tests devised by the Authority to demonstrate their equipment's compliance with the tender's open architecture specification.

At the revised offer stage, the Authority assessed all four offers as not meeting minimum requirements of the Request for Tender. Two of the four potential tenderers were progressively eliminated following this process.

The Auditor-General identified that an intensive negotiation stage followed over a four month period with the Authority's negotiation team, which did not include the Authority's CEO, conducting 126 negotiation and clarification meetings with the two shortlisted tenderers. During this period, one tenderer submitted seven revisions to its tender and the other submitted six revisions.

¹⁷¹ Mr S. Kells, Assistant Auditor-General, transcript of evidence, 25 March 2008, p.36

¹⁷² Victorian Auditor-General's Office, *New Ticketing System Tender*, October 2007, pp.45-6

3.2.5 Selection of preferred supplier

The Auditor-General stated that the Authority's evaluation committee recommended in June 2005 *that the Board accept the Keane offer*.¹⁷³ Both shortlisted offers were regarded as presenting world-class solutions but the evaluation committee considered the Keane offer represented better value for money for, among other reasons, its materially better equipment and lower risk of late delivery.

The Authority accepted the evaluation committee's recommendation and awarded the contract to Keane on 10 June 2005.

While the Auditor-General's report did not identify the recommendation put forward by the Authority's negotiation team, the Committee presumes that its recommendation was consistent with the decision reached by the evaluation committee.

3.2.6 Gateway reviews

The final descriptive comment by the Auditor-General on the Authority's tender management processes identified that the NTS tender was subject to two Gateway reviews. Around 50 recommendations were put forward from these reviews for Authority action prior to it proceeding to subsequent stages of the tender. The Auditor-General did not indicate whether these recommendations were ultimately addressed by the Authority.

3.3 The Auditor-General's assessment of the NTS tender process

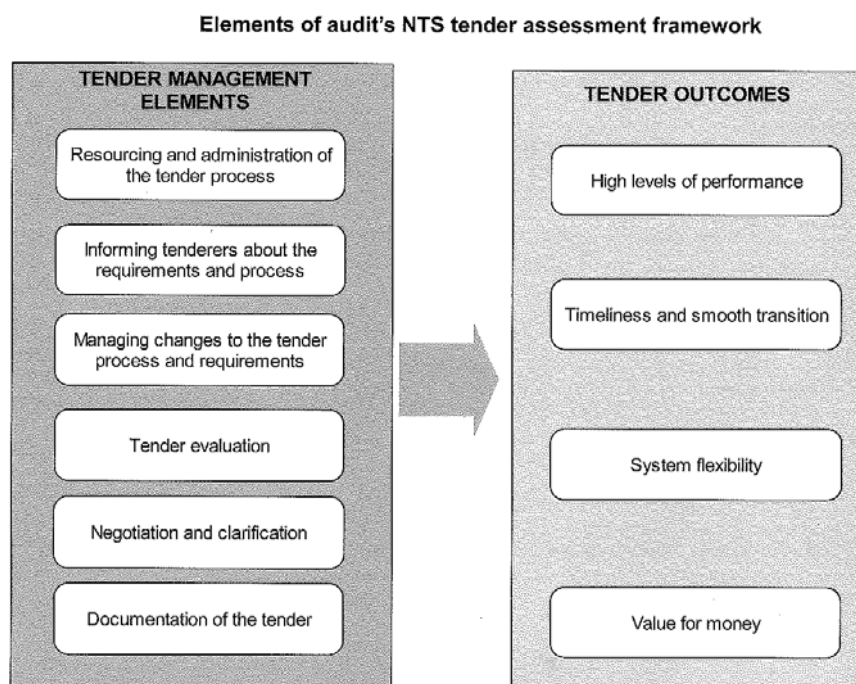
The Auditor-General's evaluative comments on the Authority's tender process were presented under this heading of the audit report. The audit evaluation comprised two components involving the reaching of findings on:¹⁷⁴

- the Authority's management performance against the six key tender elements mentioned earlier in the audit report and referred to in paragraph 3.1 above; and
- the extent to which the procurement process assisted the Authority in achieving its four high-level tender objectives mentioned in paragraph 3.2.1 above.

The diagrammatic relationship between the six key tender elements and the four tender outcomes was presented as follows in the Auditor-General's report:

¹⁷³ Victorian Auditor-General's Office, *New Ticketing System Tender*, October 2007, p.47

¹⁷⁴ *ibid.*, pp.49-52



Source: Victorian Auditor-General's Office.

On the performance of the Authority against the key elements of tender management, the findings of the Auditor-General were quite favourable in all six areas. The findings were reasonably detailed and included mild critical comment in just two areas, which were:

- *managing changes to the tender process and requirements* – where the Auditor-General found that, while the Authority took appropriate action to apprise tenderers of the evolving nature of a dynamic and complex process, some tenderers indicated they needed further information on implications of the process, as it developed. The Auditor-General considered the Authority could have taken additional steps to (1) better inform tenderers and (2) revisit periodically the control and risk frameworks established for the process; and
- *negotiation and clarification* – where the Auditor-General found that the number of people with direct access to tenderers during the negotiation stage was high (some 54 Authority staff, consultants, departmental staff and transport operator staff met with tenderers, mainly in clarification sessions held concurrently with the direct negotiations). The Auditor-General considered this situation increased the risk that information flows could not be controlled but did not report any instances of poor control of information flows by the Authority. It suggested to the Committee there was no evidence from the audit to indicate that the identified risk materialised into an actual breakdown of control over information flows.

The Auditor-General's findings on the extent of achievement by the Authority of its four high-level tender objectives were similarly favourable. Confirming audit assessments were made on the Authority's performance against all four objectives. Understandably, some of the audit comments were conditional on future project outcomes, with the Auditor-General indicating that the actual performance of the NTS cannot be assessed *until the "system is fully operational"*¹⁷⁵ and value for money will be achieved *"if the selected tender is delivered as agreed"*¹⁷⁶.

¹⁷⁵ *ibid.*, p.53

¹⁷⁶ *ibid.*, p10

The Committee welcomes the positive independent evaluation by the Auditor-General of the Authority's performance in managing the NTS tender. It also notes that a performance audit of the implementation of the ticketing system (myki) is proposed by the Auditor-General for 2010-11.

3.4 Conclusions of the Auditor-General on tender management

The conclusions reached by the Auditor-General on the Authority's tender management practices build on the results of the assessment described in the above paragraphs.

The Auditor-General concluded that the Authority largely achieved its objectives for the procurement phase of the NTS project. Importantly, the Auditor-General regarded the outcomes-focussed tender process as an effective way to encourage innovation and to improve value for money. The Auditor-General considered that the "*design of the tender is likely to have assisted the goal of achieving value for money from the tender*". The Auditor-General also made the observation that "*ensuring sustainability of the selected solution within the agreed price will be a priority for the NTS contract managers*".¹⁷⁷

The Auditor-General's main summary of conclusions on tender management in the audit report was followed by identification of four principal areas for improvement which, based on the NTS experience, were regarded as having "*wider application to major tenders in the public sector*". These areas related to:¹⁷⁸

- the tender rating system;
- specifying minimum requirements;
- managing change in the tender process; and
- the number of people involved in negotiations with tenderers.

Only the latter two matters were addressed by the Auditor-General as areas for improvement in the earlier assessment of the Authority's tender management performance.

3.4.1 Tender rating system

The Auditor-General stated that a three-part tender rating system was used for the NTS project involving ratings of "*exceeds requirements*", "*meets requirements*" and "*does not meet requirements*". Because this system did not indicate the difference between tenders within each category or provide a precise assessment of how close each tender was to meeting requirements, the Auditor-General considered a more finely grained ratings system with more discrete rating levels within categories would have put the Authority in a better position to:

- assess more meaningfully the relative position of tenders;
- more clearly match assigned ratings to the evaluation narrative; and
- monitor progress of tenders over time.

¹⁷⁷ Victorian Auditor-General's Office, *New Ticketing System Tender*, October 2007, p.53
¹⁷⁸ *ibid.*

However, the Auditor-General's report did not provide any specific information on how the rating system adopted by the Authority impeded its decision-making on evaluation of tenders. Also, the earlier audit assessment of the Authority's performance against the key element *Tender evaluation*, did not mention any shortcomings in the rating system used by the Authority but was very positive in reaching a view on the soundness of the Authority's approach to the evaluation of tenders.

These circumstances have prompted the Committee to conclude that the Auditor-General's suggested enhancement to the tender rating system was primarily directed at improving the management of future major projects in the public sector, and was not intended to convey a view that it arose from a material weakness in the procedures adopted for the NTS project by the Authority.

3.4.2 Specifying minimum requirements

Under this heading, the Auditor-General drew attention to certain risk-related requirements of the Request for Tender (RFT) that were not met by the two shortlisted tenderers in finalising their revised offers. The Auditor-General described these unmet requirements as significant and largely relating to the allocation of risk between the State and the contractor.

The unmet requirements involved:¹⁷⁹

- limits on the total liability of the contractor to the Authority;
- indexation of security bonds;
- liability for liquidated damages; and
- responsibility for costs in relation to variations proposed by the Authority.

The commentary earlier in the audit report on the Authority's approach to selection of the preferred provider, as mentioned above, identified that the Authority's evaluation committee reached quite glowing conclusions on the quality of the two shortlisted offers. The audit commentary did not indicate if the unmet risk-related requirements of the RFT, now raised in the audit report, formed part of those conclusions or were brought to the attention of the Authority's Board and the Government when formal approval was given for the contract. This matter was clarified in this section of the audit report where the Auditor-General made the following pertinent comments:¹⁸⁰

After receiving the recommendation from the evaluation team, the TTA's Board determined that the deviations from the RFT requirements were acceptable. Similarly, the government accepted that the recommended tender represented value for money and adequately satisfied the RFT requirements. The Board's decision and the government's endorsement of the selected tenderer would have been assisted by the clear articulation of a maximum acceptable level of risk for government. This would have enabled the decision-makers to determine with more precision and confidence whether the departure from the RFT requirements were minor, or whether they were such that the desired solution could not be acquired within the budget without an unacceptable allocation of risk.

The Auditor-General used the commentary on this matter to accentuate the importance of a large up-front investment in risk allocation in future major tender projects. The Committee strongly supports this view and provides further comment on the issue later in this chapter when addressing a consider point on the matter put forward by the Auditor-General.

¹⁷⁹ Victorian Auditor-General's Office, *New Ticketing System Tender*, October 2007, p.54

¹⁸⁰ *ibid.*

3.4.3 Managing changes to the tender process

The wording used for this conclusion by the Auditor-General mirrored the earlier narrative included in the audit report as part of the assessment of the Authority's tender management performance. In paragraph 3.3 above, the Committee identified that the Auditor-General considered the Authority could have taken additional steps to (1) better inform tenderers of changes to the tender process and (2) revisit periodically the control and risk frameworks established for the process.

3.4.4 The number of people involved in the negotiation and clarification processes

As with the above item, the conclusion reached by the Auditor-General under this heading was identical to the earlier finding in the audit report on the assessment of the Authority's performance. In paragraph 3.3, the Committee referred to the Auditor-General's finding that the number of people with direct access to tenderers during the negotiation stage was high and increased the risk that information flows could not be controlled.

3.4.5 Value-for-money statement

Under this heading, the Auditor-General introduced a fifth additional conclusion dealing with the concept of a value-for-money statement.¹⁸¹ The Auditor-General described such a statement as a "vehicle for conveying to the community, tenderers and other stakeholders the approach to be taken in a major tender, and particularly the elements of the approach that have a particular bearing on the achievement of value for money in the tender". The Auditor-General directed this conclusion to future major tenders and stated "the concept may be a useful tool for tendering authorities to communicate the procurement approach, and to build confidence in the approach."

The Committee discusses this matter in a later paragraph under the relevant consider point put forward by the Auditor-General.

3.5 Recommendation of the Auditor-General on tender management

The Auditor-General made one recommendation on the Authority's management of the NTS tender in regard to the review of existing guidance to capture lessons learnt from the management of major tenders (recommendation 4.1 in Auditor-General's report).

This recommendation picks up matters, as described in paragraphs 3.4.1, 3.4.3 and 3.4.4 above, that were raised in the conclusions of the Auditor-General on tender management. It reads as follows:¹⁸²

To capture lessons learnt in respect to the management of major tenders, DTF should review the VGPB guidelines and other relevant guidelines to ensure there is adequate guidance for:

- *communication between tendering agencies and tenderers about the type of tender and the tender requirements*

¹⁸¹ Victorian Auditor-General's Office, *New Ticketing System Tender*, October 2007, p.55

¹⁸² *ibid.*, p.56

- *managing changes to the tender process, including necessary adaptations to the control arrangements*
- *the evaluation of tenders, including rating systems*
- *negotiation and clarification meetings, including the number of people involved.*

In its response included in the Auditor-General's report, DTF stated that it "*regularly reviews the appropriateness of these guidelines on a continuous improvement basis. Future reviews will inter alia cover the suggested matters.*"¹⁸³

The Committee subsequently requested an update from DTF on any specific action it had taken on the audit recommendation. In its response, DTF did not provide any additional material but referred the Committee to its earlier comments on recommendation 3.3 in the Auditor-General's governance chapter (discussed under paragraph 2.3.6 in chapter 2 of this report). Those comments identified that the Gateway Initiative Lifecycle Guidance is under progressive development and regularly updated to reflect best practice, lessons learnt and government policy developments.

The Committee's earlier discussion in this chapter on the Auditor-General's assessment of management practices for the NTS tender and related conclusions indicated that, for the issues that gave rise to this recommendation, their direct implications to the soundness of the Authority's tender procedures were not always clearly evident from the audit commentary. Nevertheless, the Committee accepts the view, expressed by the Auditor-General, that ongoing reviews by DTF of applicable guidelines should be carried out in the identified areas to ensure lessons learnt in the management of major tenders in the public sector are adequately captured.

The Committee welcomes the assurance given by DTF that all relevant guidelines, including the Gateway Initiative Lifecycle Guidance, are progressively updated to reflect best practice, lessons learnt and government policy developments. The Committee looks forward to assessing on a continuing basis the results of DTF's initiatives in this area.

The Committee recommends that:

Recommendation 8: **The Department of Treasury and Finance ensure that lessons learnt from management experiences in major tenders in the public sector are adequately captured in its ongoing reviews of applicable guidelines.**

3.6 Consider points put forward by the Auditor-General on tender management

The Auditor-General included three "consider points" on tender management in the report presented to Parliament.¹⁸⁴

¹⁸³ *ibid.*, p.14

¹⁸⁴ Victorian Auditor-General's Office, *New Ticketing System Tender*, October 2007, p.56

The Committee is uncertain why these matters were not reported by the Auditor-General as audit recommendations. The Committee is of the view that the reporting of issues as “consider points”, rather than recommendations, may detract from their significance as they could be construed as failing the test of a recommendation. It contends that all three consider points raised by the Auditor-General justified the status of a recommendation.

The Committee would prefer all matters reported by the Auditor-General for consideration of Parliament and/or government be presented in the conventional manner as recommendations.

3.6.1 Risk framework for major and complex tenders (consider point 4.2(a) in Auditor-General's report)

This consider point addresses the audit conclusion discussed in paragraph 3.4.2 above. That discussion drew attention to the Auditor-General's important assessment that, the absence of a clear articulation of risks arising from certain requirements of the RFT that were not met by the successful tenderer, meant that decision makers, in approving the preferred tenderer, were not privy to the potential that the desired NTS solution could not be achieved within budget without an unacceptable allocation of risk.

The consider point reads as follows:¹⁸⁵

For major and complex tenders with a significant risk component (i.e. where the procurement contract would assign significant risk to the government, in the form of guarantees, indemnities, residual obligations and other risks), DTF should consider developing a framework for determining and articulating, in a common language and on a project-by-project basis, the maximum acceptable risk level to be borne by government.

In its response on this issue included in the Auditor-General's report, DTF stated:¹⁸⁶

In regard to developing a framework to determine and articulate “maximum acceptable risk” that may be borne by government, DTF notes the inherent difficulty in distilling, in a common language, an appropriate risk allocation that would apply to all projects. DTF will investigate the development of further guidance on risk allocation for a range of projects.

DTF subsequently elaborated in the following terms to the Committee on action it had taken since the release of the Auditor-General's report:¹⁸⁷

Recent guidance material issued for “alliance” type projects provides direction on appropriate risk allocation.

Guidance on “standard commercial principles” for Partnerships Victoria (PV) projects is also being reviewed and will be reissued shortly. This guidance relates to the allocation of risk specifically for PV projects.

Furthermore, the Gateway Initiative Lifecycle Guidance provides information on appropriate risk allocation. The Gateway material is constantly being reviewed.

¹⁸⁵ *ibid.*

¹⁸⁶ *ibid.*, p.14

¹⁸⁷ Response from the Department of Treasury and Finance to the Committee, received 17 march 2008, p.9

The Committee welcomes the information presented by DTF on the various review actions underway to update guidance on risk allocation in major and complex projects. It regards such actions as critical, given the circumstances reported by the Auditor-General on the risk exposures to government that arose from certain aspects of the NTS tender decision. The Committee supports the Auditor-General's call for development, in a common language, of a risk framework for articulating, at key decision points in major tender projects, the potential risk levels borne by government, and their implications.

The Committee considers that DTF should ensure that the outcome of its current review work adequately addresses the issues raised by the Auditor-General.

The Committee recommends that:

Recommendation 9: **The Department of Treasury and Finance ensure that updated risk allocation guidance for major projects adequately supports key decision making through articulation of potential risk levels to be borne by government, including their financial and non-financial implications.**

3.6.2 *Training in risk allocation principles in major tenders (consider point 4.2(b) in Auditor-General's report)*

This consider point reads as follows:¹⁸⁸

In concert with the development of such a framework [as per consider point 4.2 (a)], DTF should consider whether there is a need for training in risk allocation principles for practitioners involved in major tenders conducted outside the Partnerships Victoria framework.

DTF's response included in the Auditor-General's report stated:¹⁸⁹

DTF will consider the need for additional targeted training in risk allocation as part of its broader training framework.

DTF subsequently advised the Committee that:¹⁹⁰

The 2008 training program for PV contract management, with regards to both timing and content, will consider the accuracy of advice on risk allocation as part of that review.

DTF also advises that the PACCER training calendar for 2008 (issued by the VGPB) includes training on Tender Planning and Development, Tender processes and strategic Sourcing. These modules incorporate risk allocation concepts.

The Committee considers the actions taken by DTF address the issue on risk training raised by the Auditor-General.

¹⁸⁸ Victorian Auditor-General's Office, *New Ticketing System Tender*, October 2007, p.56

¹⁸⁹ *ibid.*, p.14

¹⁹⁰ Response from the Department of Treasury and Finance to the Committee, received 17 march 2008, p.10

3.6.3 Publication of a value for money statement (consider point 4.3 in Auditor-General's report)

This final consider point in the chapter reflects the Auditor-General's conclusion, discussed in paragraph 3.4.5 above, that, for future major tenders, the tendering organisation develop and publish a value for money statement to communicate how the procurement approach is aimed at achieving value for money, and to build confidence in the approach.

The consider point reads as follows:¹⁹¹

For each major and complex tender, the tendering authority should consider publishing, at the commencement of the procurement process, a value for money statement, about how the procurement process has been designed and how it will be managed in order to achieve value for money for the community.

A similar consider point, taking into account probity issues identified by the Auditor-General is also included in the Auditor-General's chapter on *Probity of the NTS tender* which is the subject of comment in the following chapter of this report. The significance of the combination of audit findings on both tender management and probity on this matter is reflected in the following comments of the Auditor-General included in the Foreword to the audit report:¹⁹²

Communicating to the community clearly and regularly about the process integrity of major tenders and how they are being managed to achieve value for money is key to maintaining community trust and confidence. Addressing perceptions of conflicting interests is an important probity consideration often overlooked, and as future major tenders are planned and implemented in Victoria, the NTS experience should be salutary.

This consider point is directed by the Auditor-General to tendering organisations managing future major projects. The Committee concurs with the Auditor-General that a value for money statement could be a valuable communicative tool to build external trust and confidence. One downside risk to the issue of such a statement is that it could excessively raise public expectations, particularly in the event that unforeseen post-tender problems are ultimately experienced. Nevertheless, the Committee considers that the action advocated by the Auditor-General would lead to timely and transparent information for Parliament and the public on key aspects of the tender design and management phases of a major project.

The consider point is future-oriented and involves an issue that would be relevant for all major tenders in the public sector. The Committee also notes that the methodology for developing value for money statements is a recent development and is becoming part of standard practice in the last few years. The Committee is of the view that DTF should take the lead role in implementing appropriate changes to tendering guidelines.

The Committee recommends that:

Recommendation 10: **The Department of Treasury and Finance implement changes to tendering guidelines that alert tendering organisations to the benefit of publicly issuing a value for money statement on key aspects of the tender approach.**

¹⁹¹ Victorian Auditor-General's Office, *New Ticketing System Tender*, October 2007, Foreword, p.56

¹⁹² *ibid.*, p.vi

CHAPTER 4: PROBITY OF THE NTS TENDER

The third substantive chapter of the Auditor-General's report, addressed the key topic of probity in the NTS tender.

About half of the chapter contains highly useful descriptive commentary on the normative requirements for effective management of probity in tendering, without specific reference to the NTS tender. The Committee considers this commentary constitutes valuable guidance for tendering organisations in the public sector who may be planning to embark on a major tender.

Audit evaluative commentary specifically pertaining to probity issues in the NTS tender is then provided in the latter part of the chapter and used as the basis for presentation of audit findings.

4.1 Importance of probity in tendering

The introductory comments of the Auditor-General on probity in tendering identify that the key goal for all procurers is to achieve value for money while maintaining appropriate standards of fairness and process integrity. The Auditor-General stressed the importance, with innovative tendering processes, of scrupulous implementation of appropriate probity frameworks.

The Auditor-General set out five key areas of probity risk in tenders, namely:¹⁹³

- unfair treatment of tenderers;
- conflicts of interest;
- corruption of the tender process;
- a lack of transparency; and
- a loss of public confidence in the tender process.

The Auditor-General then summarised the emerging features of contemporary tendering approaches which aim, through a more commercial approach to public sector procurement, to open up new ways to obtain value for money. In these cases, the Auditor-General contends that greater attention to probity is likely to be needed to ensure innovation in tendering never weakens process integrity.

The Auditor-General finishes these introductory comments with the strong point that confidence by tenderers in procedural integrity will encourage quality bids and bring about higher value for money for government.

4.2 Background to tender probity arrangements

Under this heading, the Auditor-General described the goals of probity frameworks in terms of ensuring fairness and impartiality in the conduct of the tender, consistency and transparency in communications, and security and confidentiality in the treatment of information.¹⁹⁴

The Auditor-General followed this description with identification of the key criteria for probity goals including development of a probity plan, engagement of probity and legal advisors and a probity auditor, and probity training for staff of the tendering body.

¹⁹³ Victorian Auditor-General's Office, *New Ticketing System Tender*, October 2007, p.59

¹⁹⁴ *ibid.*, p.60

4.3 Managing conflicts of interest

In this section of the audit report, the Auditor-General identified ten key steps in the administration of tenders that need to be taken to ensure effective management of actual and potential conflicts of interest.¹⁹⁵

The section concludes with a reference to Appendix F of the audit report which summarises, in an informative way, probity legislative requirements at State and Commonwealth Government levels.

4.4 Conflicts of interest in the NTS tender

Under this heading, the Auditor-General identifies, in a descriptive but non-evaluative manner, procedures followed by the Authority in the management of actual and potential conflicts of interest. The commentary represents the first specific references in the chapter to the NTS tender.¹⁹⁶

Before describing the Authority's management actions on conflicts of interest, the Auditor-General recognised that the specialised nature of the ticketing system industry and the Authority's deliberate strategy of employing staff with ticketing experience increased the likelihood of staff having potential conflicts of interest from prior involvement with prospective tenderers.

The elements of the Authority's management procedures in this area, as summarised by the Auditor-General, included:

- identification by the Authority's probity auditor of more than 30 staff and other individuals who had potential conflicts of interest;
- the steps taken by the probity auditor for these individuals including the assignment of a risk rating and formulation of strategies to mitigate the impact on the tender process;
- assignment of a high conflict of interest rating for seven staff and one consultant;
- disclosure to the Authority and the probity auditor of all shareholdings in conflict of interest statements signed by staff and consultants;
- categorisation of all declared shareholdings as modest with most considered to be immaterial;
- identification of the most significant shareholding as that of the Authority's Chief Executive Officer (CEO) in Headstrong/James Martin & Co. Headstrong formed part of the two consortia ultimately shortlisted by the Authority. Appendix G to the audit report lists, in chronological sequence, actions taken by the Authority over the period June 2003 to June 2006 to address this matter; and
- disclosure to the Authority and the probity auditor of the shared work histories of the CEO and the Authority's Senior Project Manager with a number of members of the tendering consortia, and of a senior member of one of the bid teams who had been employed by the Authority as a consultant in the development of the NTS's open architecture specifications.

The Auditor-General also identified that the Authority informed all tenderers about the conflicts of interest and required tenderers to sign legal declarations they would not make claims as a result of these prior relationships.

¹⁹⁵ *ibid.*, p.61

¹⁹⁶ *ibid.*, pp.62-3

4.5 Communicating with tenderers and managing information flows

Under this section, the Auditor-General reverted to a normative presentation, without any direct references to the NTS tender, of the prerequisites for effective communications in tender projects. The section describes, in a most informative way, the requirements for sound implementation of communication strategies in tendering, with an emphasis on interactive tenders.

The requirements for strong management of communications and information flows to and from tenderers, as outlined by the Auditor-General, encompass the need for:¹⁹⁷

- protocols and processes to safeguard against information leaks, inconsistent treatment and undue influence over the outcomes of tender assessments;
- a limit on the number of people allowed to interact with tenderers (suggested by the Auditor-General as five to 10 for negotiations, supplemented by other specialists for clarifying technical issues);
- a communication plan to control information flows with all communications made through appropriate channels such as email addresses, web sites, designated contact officers and the probity auditor;
- rules to govern meetings with tenderers including monitoring procedures established by the probity auditor; and
- extra steps in flexible tender processes to address the risk of information leaking between tenderers.

The Auditor-General recognised that, while some degree of flexible and informal communications may be appropriate for particular stages of the tender process, the tendering body needed to maintain clear and robust controls over the type and extent of communication that may occur between the tender team and tenderers.

4.6 Findings of the Auditor-General on probity

The Auditor-General's report then addressed findings pertaining to probity in the NTS tender under the following four headings:¹⁹⁸

- conflicts of interest;
- management of communications and information flows in the NTS tender;
- changes to the probity plan; and
- security of communications.

These findings constituted the Auditor-General's evaluative commentary on the soundness of the Authority's management of probity in the NTS tender.

¹⁹⁷ *ibid.*, pp.63-4

¹⁹⁸ *ibid.*

4.6.1 Conflicts of interest

The Auditor-General reached a favourable finding on the Authority's management of conflicts of interest. The Auditor-General's substantive finding was as follows:¹⁹⁹

Because of the nature of the ticketing system field, the NTS tender faced a number of foreseeable conflicts of interest. The Authority identified the conflicts of interest in a timely way. Audit found no evidence of corruption in the NTS tender, and no evidence that the conflicts of interest led to the unfair or biased treatment of particular tenderers or groups of tenderers.

On the management of perceived conflicts of interest, the Auditor-General cited the shares held by the Authority's CEO in Headstrong, a company which, as mentioned above, was part of the two consortia ultimately shortlisted for the tender. The Auditor-General's finding on the CEO's shareholding was:²⁰⁰

Given the small size of the company's involvement in the successful consortia, and the size of the CEO's shareholding, the shareholding's effect on the CEO's incentives was not material. Nevertheless, the shareholding's potential to damage community confidence in the tender was high.

The Auditor-General then, in brief but pointed comments, identified two areas where the Authority could have taken additional steps on its management of conflicts of interest:²⁰¹

- specifically in respect of perceived conflicts relating to the CEO's shareholding, further action such as requiring disposal of the shares to a third party, publicly disclosing the efforts to dispose of the share, or removing the CEO from aspects of the evaluation process; and
- more generally, further action to communicate to tenderers, the government and the community, how it was managing the real and perceived conflicts that arose in the tender.

In reaching the latter finding, the Auditor-General recognised that the Authority went to considerable lengths to disclose conflicts of interest to tenderers.

During the public hearings, the Committee sought clarification from the Auditor-General on the procedures followed during the audit to establish that the CEO's shareholding in terms of the effect on the CEO's incentives was 'not material'. The Committee was informed that:²⁰²

... We analysed the share of Headstrong in the contract, the potential impact on the company from getting the contract, and his share of the company because he had shares in it, and came to the view that all of those things together added up to a small number.

... The way we got around the issue was, as I said, to do the analysis, to say 'What would be the delta? What would be the differential benefit to the company? Regardless of what its value is and regardless of what the value of the shares is, what would be the increment in value from it getting this contract and what would be the CEO's share of that increment in value? That calculation is robust regardless of the value of the shares.'

¹⁹⁹ *ibid.*, pp.64-5

²⁰⁰ *ibid.*, p.65

²⁰¹ *ibid.*

²⁰² Mr S Kells, Assistant Auditor-General, transcript of evidence, 25 March 2008, pp.28-9

...Our analysis rested on the share – the starting point is the value of the myki contract which we talked about at length at this table. The next point is what was Headstrong’s share in that under the two consortia. The next point was how much of that would end up as profit for the entity and then how much of that would end up as after-tax profit for the shareholders, and then what sort of share in the company people who have had this many shares would have?

We worked out the profit difference or the value difference from it winning the contract versus it not winning the contract, which is the same regardless of the value of the shares.

Following consideration of the above information, the Committee shares the view reached by the Auditor-General that the size of the CEO’s shareholding, in absolute terms and relative to the size of Headstrong’s involvement in the successful consortia, meant that it would not have a material effect on the CEO’s incentives. It also concurs with the opinion reported by the Auditor-General that the CEO’s shareholding had high potential to damage community confidence in the tender.

The Committee has concluded that the Authority should have taken additional steps, such as those suggested by the Auditor-General in the audit report, to supplement its other actions and to more effectively discharge its responsibility for managing this perceived conflict of interest, which was particularly sensitive in nature.

4.6.2 Management of communications and information flows in the NTS tender

The Auditor-General found that, in most cases, *“communications between the Authority and tenderers were controlled according to the procedures set out in the Authority’s probity plan and protocols, evaluation plans and procedures.”*²⁰³

However, the Auditor-General identified some instances of non-compliance with pre-determined controls including 28 of a total of around 180 meetings with tenderers not sound-recorded and documented, and most telephone calls to the two shortlisted tenderers during the negotiation phase not documented.

The significance of the second finding was offset to some extent by a subsequent audit comment that *“while the great majority of the undocumented telephone conversations were not material, documentation of phone calls would have provided a higher degree of probity assurance.”*²⁰⁴

The Committee notes, however, that the audit report did not provide evidence of any material breakdowns in controls by the Authority as a consequence of non-compliance with pre-determined controls.

A further finding of the Auditor-General was that, while management of communications was covered in a number of documents, the Authority did not prepare a dedicated communications strategy. The Auditor-General stated that use of such a strategy *“would have strengthened the probity framework and the Board’s oversight of the tender”*.²⁰⁵

²⁰³ *ibid.*, p.65

²⁰⁴ *ibid.*, p.66

²⁰⁵ *ibid.*

The Auditor-General's final finding on communications and information flows related to the physical organisation of meetings. The Auditor-General found that, while there was no evidence the physical organisation of meetings contaminated the flow of information, the Authority's task of managing flows would have been aided by physical separation of the project team from the negotiation and clarification rooms.

The Committee accepts the Auditor-General's findings on communications and information flows, noting that these are areas for consideration for any future tender management process.

4.6.3 Changes to the probity plan

Under this heading, the Auditor-General identified that, during the initial offer stage of the NTS tender, the Authority removed the requirement in the probity plan for the probity auditor to attend all meetings with tenderers, including overseas site visits and workshops. The requirement was replaced with attendance '*as required*'.²⁰⁶

The Auditor-General found that no guidance was presented to the Authority's Board on how the discretionary attendance of the probity auditor was to be managed. Thus, there were no explicit principles in place for ensuring the probity auditor attended all key meetings or those where probity risks were assessed as particularly high.

While the Auditor-General did not identify if the probity auditor attended all significant meetings after implementation of the changes to the probity plan, the audit report pointed out that the Authority should have been more precise in its management of the changes.

4.6.4 Security of communications

For this fourth category of findings on probity, the Auditor-General reported that the audit found two email miscommunications (involving inappropriate sending of information to tenderers or other parties) out of a total of around 1500 emails that were sent by the Authority to tenderers. The Auditor-General cited these isolated cases of miscommunications as evidence that the Authority's email controls were largely effective.²⁰⁷

The final comment of the Auditor-General under this heading related to the alleged leaking on 13 July 2005, the day after the Authority's awarding of the NTS contract to the successful tenderer, of a significant number of Authority documents, and one NTS tenderer document which the Authority had neither seen nor taken possession of, to a journalist.

This alleged leak, which received significant media attention at the time, was investigated by the Auditor-General following a request from the Minister for Transport in July 2005. The findings from this investigation were that the Authority's internal controls limited access to the leaked information to seven staff and there was no evidence these staff passed such information to anyone outside the Authority. Appendix B to the audit report summarises the background to the audit investigation and identifies the audit findings.

²⁰⁶ *ibid.*, pp.67-8

²⁰⁷ *ibid.*, pp.68-9

4.7 Conclusions of the Auditor-General on probity

Based on the findings outlined in the audit report, the Auditor-General concluded on the Authority's management of probity in the NTS tender in the following terms:²⁰⁸

The Authority developed an appropriate probity framework for the NTS tender, however, the framework was weakened during the course of the tender by instances of non-compliance with the controls, and the revisions to the probity plan. The revisions introduced an element of discretion that was not guided by explicit policies or principles.

Audit identified a small number of instances where sensitive tender information was not adequately controlled. In the course of the NTS tender, the Authority adopted an innovative, highly interactive approach. While the instances of miscommunication were not directly traced to particular weaknesses, the evolution of the tender approach warranted further steps to strengthen the Authority's control framework for managing communication with tenderers. These steps were not taken.

Communication and information flows would have been easier to manage had the project team been physically separated (e.g. in a different building or on a different floor) from the location of meetings with tenderers.

These findings formed the basis of the Auditor-General's recommendations on probity.

4.8 Recommendations of the Auditor-General on probity

The Auditor-General made two recommendations that arose from the audit examination of probity in the NTS tender. Both recommendations are directed at strengthening guidance for future major tender projects in the public sector.

4.8.1 **Stronger and more precise guidance for maintaining probity and integrity of major innovative tenders (recommendation 5.1 in Auditor-General's report)**

This recommendation reads as follows:²⁰⁹

The VGPB guidelines and other relevant guidelines should be reviewed to provide stronger and more precise guidance for maintaining the probity and integrity of major innovative tenders. The guidance should take account of the lessons learnt from the NTS tender and other recent major tender processes particularly with respect to:

- *the planning of the probity approach*
- *the identification and management of conflicts of interest and other probity issues, including management of perceived conflicts of interest*
- *controlling communications with tenderers and the management of sensitive information.*

²⁰⁸ *ibid.*, p.69

²⁰⁹ *ibid.*

In its response to this recommendation included in the Auditor-General's report, DTF stated:²¹⁰

DTF concludes that the current processes for the conduct of tenders, and of conflict of interest declarations, are satisfactory. Future reviews of these policies will take into account the lessons learnt from the NTS tender.

The Committee subsequently sought from DTF an update on action it had initiated on this recommendation. DTF referred the Committee to its response to recommendation 3.3 of the Auditor-General. In that response, which was discussed in paragraph 2.3.6 of this report, DTF advised of the various review processes that were underway for particular guidelines, including the Gateway Initiative Lifecycle Guidance.

As with all of the other recommendations of the Auditor-General calling for a review of guidance available for major tender projects, the Committee looks forward, in due course, to assessing the results of the specific review actions initiated by DTF. The Committee considers DTF should ensure that its reviews lead to adequate coverage within tendering guidelines of the specific probity matters identified by the Auditor-General in this recommendation.

The Committee recommends that:

Recommendation 11: **The Department of Treasury and Finance ensure its updating of tendering guidelines incorporates the specific probity matters cited by the Auditor-General as necessary to strengthen guidance for maintaining the probity and integrity of major innovative tenders.**

4.8.2 *Physical separation of tender project team from location of tenderer meetings (recommendation 5.2 in Auditor-General's report)*

This recommendation reads as follows:²¹¹

For major and complex tenders, the tender project team should be physically separated from the location of tenderer meetings.

In its response to this recommendation included in the Auditor-General's report, DTF stated:²¹²

DTF agrees that, in future, tender meetings should occur in physical isolation of an operational workplace.

DTF later advised the Committee:²¹³

DTF actively engages with departments and agencies procuring and delivering major projects. Through this engagement, DTF seeks to deploy common approaches to project delivery.

²¹⁰ *ibid.*, p.14

²¹¹ *ibid.*, p.67

²¹² *ibid.*

²¹³ Response from the Department of Treasury and Finance to the Committee, received 17 March 2008, p.8

Regarding this specific AG recommendation, as part of the ongoing review of VGPB guidelines the relevant sections are being revised.

The recommendation picks up the Auditor-General's finding referred to in paragraph 4.6.2 above and the associated audit conclusion identified in the final part of paragraph 4.7.

Although, as mentioned in paragraph 4.6.2, the Auditor-General found no evidence the physical organisation of meetings contaminated the flow of information in the NTS tender, the Committee concurs with the Auditor-General's opinion that the Authority's task of managing flows would have been aided by physical separation of the project team from the negotiation and clarification rooms.

The Committee therefore welcomes DTF's positive response to the issue and expects that an appropriate addition to the VGPB guidelines to assist future tender projects will have been made as part of the identified review process.

The Committee recommends that:

Recommendation 12: **The Department of Treasury and Finance include a provision within guidelines for major and complex tenders that requires physical separation of a project team from the location of negotiation and clarification meetings with tenderers.**

4.8.3 *Disclosure on real and perceived conflicts of interest in a value for money statement (consider point 5.3 in Auditor-General's report)*

The Auditor-General included one consider point on probity of the NTS tender in the audit report. It reads as follows:²¹⁴

When a value for money statement is published for a major tender, it should include the key elements of how the tender management team will manage real and perceived conflicts of interest.

DTF's response, as included in the Auditor-General's report, was as follows:²¹⁵

DTF notes that tender documents ordinarily include information on tender objectives and the desired outcomes that would represent value for money principles. In reviewing future guidance material, instruction will be provided to capture the suggested concepts, including broader public interest outcomes.

This consider point builds on the Auditor-General's consider point 4.3 included in Chapter 4 of the audit report covering management of the NTS tender. That consider point advocated publication of a value-for-money statement for major and complex tenders.

²¹⁴ Victorian Auditor-General's Office, *New Ticketing System Tender*, October 2007, p.69

²¹⁵ *ibid.*, p.14

The Committee's views on consider point 4.3, encompassing tender management and probity aspects, were addressed under paragraph 3.6.3 in chapter 3 of this report. The Committee's commentary in that chapter culminated in a recommendation that DTF implement changes to tendering guidelines that alert tendering organisations to the benefit of publicly issuing a value-for-money statement on key aspects of the tender approach.

The Committee therefore welcomes the assurance provided by DTF that the Auditor-General's call for publication in major tenders of a value-for-money statement addressing both tender management and probity issues will be reflected in updated tendering guidelines.

**PART C – CONDITION OF
PUBLIC SECTOR
RESIDENTIAL AGED
CARE FACILITIES**

CHAPTER 1: HISTORY OF THE REVIEW AND FOLLOW-UP

1.1 Introduction

The Auditor-General undertook a performance audit on the *Condition of public sector residential aged care facilities* in 2005 and 2006 and published his report in August 2006.

In February 2008, the Committee advised the Auditor-General of its intention to undertake a follow-up inquiry in relation to the performance audit report on the *Condition of public sector residential aged care facilities*. As part of this process, the Auditor-General was requested to provide the Committee with:

- detailed comments on the responses of the Department of Human Services (DHS) to the August 2006 audit report, as contained in the *Response by the Minister for Finance to the Auditor-General's Reports for 2006-07*;
- views on any recommendations in the audit report not supported by DHS for implementation; and
- any other issues relating to the condition of public sector residential aged care which should be considered in the Committee's follow-up review.

1.2 The report of the Auditor-General

The objective of the audit was to determine the condition of Victorian public sector residential aged care facilities' performance and review the effectiveness of the Department's management to ensure that the facilities met the relevant standards.

The audit was primarily an audit of asset management and maintenance relating to public sector residential aged care facilities. The audit approach involved an assessment of the condition of the facilities and an assessment of how well the Department, in its co-ordination, stewardship and ownership role, contributed to the management of those assets.

Specifically, the audit focussed on three areas:²¹⁶

- Does DHS adequately plan for managing the condition of public sector aged care facilities?
- How well managed was action taken by DHS to address the condition of the facilities?
- What is the current condition of Victorian public sector residential aged care facilities?

The overall conclusions of the Auditor-General were that:²¹⁷

- the Department did not adequately plan for managing the condition of public sector residential aged care facilities;
- actions taken by the Department to address the condition of the facilities was not well managed; and
- the condition of the majority of facilities had not improved since 2001.

²¹⁶ Victorian Auditor-General's Office, *Condition of public sector residential aged care facilities*, August 2006, p.6

²¹⁷ *ibid.*, pp.8-14

The Report included a number of detailed findings together with 10 recommendations aimed at improving the stewardship and co-ordination efforts of the Department in relation to the asset management of public sector residential aged care facilities in Victoria.

1.3 Response by the Department of Human Services

The overall response of the Department was that it did not agree with a number of the audit's findings and conclusions and believed that the auditor's methodology was flawed.

In an update of its comments in relation to the audit, the Department maintains that its view as stated in the Report's Executive Summary remains unchanged:²¹⁸

While both the department and audit agreed on the importance of ensuring adequate measures are in place to protect vulnerable residents, the parties had different views regarding the optimal means of achieving this objective, and the suitability of the methodology employed by the Auditor General's in relation to the assessment of facilities.

Specific departmental responses to the Auditor-General's findings and recommendations are detailed in the respective sections contained elsewhere in this report.

1.4 Further advice from the Auditor-General

The Auditor-General advised the Committee that his Office had reviewed the responses of the Department as published in the *Response by the Minister for Finance to the Auditor-General's Reports for 2006-07*. The Auditor-General noted throughout his response to the Committee, that many of the Department's responses did not address the issues identified by the audit.

The Auditor-General stated that he was unable to determine whether any actions taken by the Department subsequent to the tabling of the Response of the Minister for Finance had in fact been implemented.²¹⁹ The Victorian Auditor-General's Office had not conducted a follow-up review of its audit.

At the Committee hearing on 24 April 2008, the Auditor-General stated that he was reassured by the Secretary of the Department's response to the Committee in March 2008 which supported the audit's views in many places. The Auditor-General stated in respect to the response that:²²⁰

It accepts the Department's major role in asset planning and management, fire risk management and capital development. It also addresses the accountability of the managers of the facilities to the Department of Human Services.

²¹⁸ *ibid.*, p.1

²¹⁹ Mr D Pearson, Auditor-General, letter to the Committee, received, 11 March 2008, p.8

²²⁰ Mr D. Pearson, Auditor-General, transcript of evidence, 24 April 2008, p.14

1.5 Scope of the review undertaken by the Committee

On 27 March 2008, a public hearing was held with Ms Fran Thorn, Secretary, Dr Chris Brook, Executive Director, Rural and Regional Health and Aged Care Services and Ms Jane Herrington, Director, Aged Care, from DHS.

On the 24 April 2008, a public hearing was held with Mr Des Pearson, Auditor-General, Ms Ellen Holland, Senior Director, Dr Peter Frost, Chief Operating Officer and Mr Rocco Rottura, Performance Auditor, from the Victorian Auditor-General's Office.

The following chapters outline the Committee's findings on key issues relating to the management of the condition of public sector aged care facilities in Victoria.

CHAPTER 2: AN OVERVIEW OF RESIDENTIAL AGED CARE IN VICTORIA

2.1 Introduction

Australia, like other OECD countries, is experiencing an ageing of its population as average life spans increase and fertility rates decline. It is anticipated that the number of Australians aged 65-plus years will more than double over the next half-century. By 2021, the State Government anticipates an increase of 65 per cent in the number of Victorians over the age of 70 years.²²¹ As such, residential aged care is an increasingly important component of the Australian health care system. It provides support to frail, elderly and others within the community who are unable to continue to live at home. Residential aged care is a Commonwealth Government program established under the *Aged Care Act 1997* and is provided by a mix of private, non-profit and public sector providers all of which are individually approved under the Act.

In Australia, the standard of residential aged care is regulated by the Commonwealth Government through a system of certification and accreditation.

There are a number of factors which impact on the quality of life of those living in aged care facilities, one of which is the physical condition of the facilities. Over time, changes in work practices, care needs, environmental sustainability considerations and community expectations can impact on the ability of a facility to deliver an efficient and effective residential aged care service.

2.1.1 Role of the Commonwealth Government

The Commonwealth Government has primary responsibility for planning, funding and regulating the residential aged care industry. Each year the Commonwealth Government through the Commonwealth Department of Health and Ageing (DoHA) allocates subsidised places based on the age profile of the population over 70 years of age. Funding is allocated to approved providers, certified and accredited by the Commonwealth, and together with resident contributions, is directed at covering costs associated with the provision of residential aged care, including:²²²

- built accommodation;
- lifestyle (leisure activities, cultural and spiritual life);
- support services (meals, cleaning and laundry);
- personal care services (help with dressing, eating, toileting, bathing, and mobility);
- allied health services (physiotherapy, occupational therapy and podiatry); and
- nursing care, when required.

If services do not comply with the Commonwealth standards then processes are put in place to achieve compliance. The most serious sanction for non-compliance which the Commonwealth can impose is revocation of 'approved provider' status.

²²¹ Victorian Government, *Public Sector Residential Aged Care Policy - The Victorian Government's role in residential aged care services*, October 2004, Foreword

²²² *ibid.*, p.10

(a) Certification of Aged Care Facilities

In 1999, the Commonwealth implemented a 10 year forward plan for certification setting a number of minimum standards of quality which a facility must meet. Over the past 9 years, these standards have been increased with the introduction of new fire safety standards required by 2005 and additional privacy and space requirements by 2008.

Certification is a once-off process which covers the following 7 areas:²²³

- safety (based on the Building Code of Australia);
- hazards;
- privacy;
- access, mobility and occupational health and safety;
- heating and cooling;
- lighting and ventilation; and
- security.

(b) Accreditation of Aged Care Facilities

Services provided by an aged care facility are monitored and periodically audited by the Commonwealth (generally every 3 years) to ensure that standards relating to the quality of care provided are maintained. Accreditation includes 44 expected outcomes across the following four areas:²²⁴

- management systems, staffing and organisational development;
- health and personal care;
- resident lifestyle; and
- physical environment and safe systems.

2.1.2 Aged Care Facilities and organisations in Victoria

In Victoria, 81 public sector agencies operate a total of 196 residential aged care facilities across the state, providing 16 per cent of the State's total residential aged care places.²²⁵ The majority of the 6866 public sector residential aged care places are located in rural and regional Victoria.²²⁶

Public sector facilities account for 5 per cent of places in Melbourne and 39 per cent in rural Victoria. Public sector residential aged care places are managed by the State's public health services, mainly through hospitals and associated networks.²²⁷

²²³ Victorian Auditor-General's Office, *Condition of public sector aged care facilities*, August 2006, p.21

²²⁴ *ibid.*, pp.21-22

²²⁵ Ms F Thorn, Secretary, Department of Human Services, letter to the Committee, received 11 March 2008, p.3

²²⁶ Ms F. Thorn, Secretary, Department of Human Services, transcript of evidence, 27 March 2008, p.2

²²⁷ Victorian Government, *Public Sector Residential Aged Care Policy - The Victorian Government's role in residential aged care services*, October 2004, p.14

There are two types of residential aged care:

- high care, including nursing care; and
- low care, providing mainly personal care services.

Some aged care facilities offer one type of care whilst others provide both, helping residents to remain in the same facility as their needs change.²²⁸

In Victoria, the *Health Services Act 1988* establishes public hospitals, public health services, denominational hospitals, community health services and multi purpose services. Public hospitals, public health services and multi purpose services are all involved in aged care provision and as such come under the provisions of both the Health Services Act and the Aged Care Act. Health services are ‘approved providers’ in their own right and are accountable for all aspects of their participation in the aged care program directly to the Commonwealth Government.

Of the 81 public sector agencies currently involved in the provision of residential aged care facilities in Victoria, maining five agencies are independently incorporated under the *Associations Incorporations Act 1981* with various references within their rules to the State Government and DHS.²²⁹

DHS has a role in overseeing these organisations, in particular to ensure they have appropriate governance arrangements in place.

The Health Services Act provides a framework for the development, governance, administration and provision of State funded health services. The Act requires each health service to establish either a Board of Management or Board of Directors with responsibility for the management and performance of the facility under their control.

Like the Aged Care Act, the Health Services Act vests responsibility for asset management with the health services provider. While the Health Services Act establishes responsibilities for planning, these responsibilities “*extend only to those areas that are exclusively within the scope of State Government decision making*”.²³⁰

In respect to residential aged care, any planning, policy or guidelines undertaken by the State need to be consistent with and complementary to the Commonwealth’s exercise of its responsibilities in this area.²³¹

The State Government uses mechanisms such as State enacted legislation, social and economic policies, and relationships with the Commonwealth Government, peak advisory bodies and other key stakeholder groups to advocate for Victorian communities.²³²

²²⁸ *ibid.*, p.10

²²⁹ *ibid.*, p.19

²³⁰ *ibid.*, p.4

²³¹ *ibid.*

²³² *ibid.*, p.5

In respect to funding, the Department advised that, while the Commonwealth Government is the primary source of funding for residential aged care, the State Government:²³³

...provides funding on a top up basis to cover additional costs that may be incurred by health services due to State policy related arrangements. Recurrent funding is to cover the additional employment costs provided through public sector Enterprise Bargaining Agreements. In 2007-08, this funding totalled \$96.7 million. The Department also provides funding for capital, including major capital works, annual provisions and equipment and infrastructure works. This capital funding is on top of Commonwealth funding and resident bonds which, for all other providers, is expected to meet capital needs.

In terms of the State Government's capital investment in public sector residential aged care services, the Department advised that since 2000, \$420 million has been provided for projects incorporating the replacement and/or upgrade of public sector residential aged care facilities.²³⁴

(a) *The Victorian Government's Public Sector Residential Aged Care Policy*

In October 2004, the Victorian Government released its '*Public Sector Residential Aged Care Policy – The Victorian Government's role in residential aged care services*'. This document outlines how the State Government views its role in residential aged care services, within what is primarily a Commonwealth system, and confirms its commitment to '*maintaining a strong presence in public sector residential aged care provision*'.²³⁵ The document lists the Government's key policy directions for public sector residential aged care services as follows:²³⁶

- confirm the Victorian Government's commitment to public residential aged care services;
- ensure access for rural Victorians to residential aged care;
- improve care and access for client groups with specialised care needs:
 - Aged Persons Mental Health clients needing residential care;
 - people with complex care needs;
 - older people with high acuity, time-limited care needs; and
 - people with disabilities who need 24 hour residential nursing care.
- enhance operation of the health and aged care system components through supporting service pathways involving public sector residential aged care;
- respond to changing community characteristics and care preferences with the appropriate service configuration; and
- develop the sector through initiatives that drive quality of care and good management and financial outcomes.

²³³ *ibid.*

²³⁴ *ibid.*, p.2

²³⁵ Victorian Government, *Public Sector Residential Aged Care Policy - The Victorian Government's role in residential aged care services*, October 2004, p.7

²³⁶ *ibid.*, p.8

The policy states that the Victorian Government has a role in promoting a well developed, accessible aged care system in which public, private and non-government residential aged care services operate.²³⁷

(b) The Department of Human Services

While residential aged care is primarily a Commonwealth responsibility, the State Government takes an active role in ensuring access and equity for the Victorian community.

The Department of Human Services is the state agency responsible for the administration of the Health Services Act and the implementation of relevant State Government policies.

The Department is the primary source of funding to health service providers for the purpose of providing acute, sub acute, mental health and primary care services. These health service providers are in turn accountable to the Department for all funds received through Health Service Agreements provided for under the Health Services Act.²³⁸

In accordance with the Secretary's responsibilities as outlined in the Health Services Act, the Department collects data from health services, conducts performance analysis on reported outcomes and has a range of reporting responsibilities to central agencies.²³⁹

In relation to aged care, the individual state instrumentalities that manage and own aged care facilities are directly funded by and responsible to the DoHA for the provision of aged care within the 196 public aged care facilities. They are deemed to be Approved Providers under Commonwealth legislation.

The Department of Human Services supports a range of initiatives aimed at improving “*the overall capacity of public sector aged care services to meet Commonwealth standards and drive continuous improvement*”.²⁴⁰ It does this through the provision of staff training, the development of tools and resources for service providers and the implementation of a range of activities to assist providers in achieving Commonwealth certification compliance. The Department also plays a major role in asset management, fire risk management and capital planning and development.²⁴¹

The Secretary of the Department advised:²⁴²

DHS, as the state agency responsible for the administration of the Health Services Act and the implementation of State Government policies, appropriately exercises responsibilities and programs that impact upon the capacity of state agencies that are Approved Providers of residential aged care. DHS does not, however, have a direct planning, administrative or operational responsibility in relation to the provision of Commonwealth funded residential aged care services.

²³⁷ *ibid.*, p.13

²³⁸ Ms F Thorn, Secretary, Department of Human Services, letter to the Committee, received 11 March 2008, p.23

²³⁹ *ibid.*

²⁴⁰ *ibid.*, pp.4-5

²⁴¹ *ibid.*, p.5

²⁴² *ibid.*, p.26

CHAPTER 3: THE MANAGEMENT AND MAINTENANCE OF RESIDENTIAL AGED CARE FACILITIES

3.1 Introduction

In 2001, the Department commissioned a survey to assess the condition of 275 state-funded health facilities across Victoria of which 207 were public sector residential aged care facilities. The Department advised that such surveys are usually undertaken every 5 years and are referred to as a fabric survey. The term “fabric” relates to the physical material of a building and includes the roof and façade, internal walls, ceilings and floor finishes.²⁴³

The Department advised that the scope of the 2001 fabric survey covered:²⁴⁴

- the assessment of the condition of the building fabric and building infrastructure of publicly funded residential aged care facilities and health facilities;
- reporting on the compliance with regulatory, DHS outcome standards and Occupational Health and Safety standards related to the built facilities;
- assessment of building functionality and operational efficiency;
- adaptability to other health and aged care functions; and
- building replacement costs.

The purpose of these surveys is to provide input to the development of future capital works programs.²⁴⁵ Such programs require State government consideration and approval, usually in a budget context.

In reviewing action taken by the Department to address the condition of public sector residential aged care facilities, the Auditor-General asked the following questions:²⁴⁶

- Does DHS adequately plan for managing the condition of public sector residential aged care facilities?
- Was action taken by DHS, to address the condition of the facilities, well managed?

²⁴³ Victorian Auditor-General’s Office, *Condition of public sector aged care facilities*, August 2006., p.29

²⁴⁴ Ms F Thorn, Secretary, Department of Human Services, letter to the Committee, received 12 September 2008, p.2

²⁴⁵ Victorian Auditor-General’s Office, *Condition of public sector aged care facilities*, August 2006., p.29

²⁴⁶ *ibid.*

3.2 Planning capital needs of public sector residential aged care

Based on the results of the 2001 fabric survey and certification information known to the Department at the time, DHS categorised public sector residential aged care facilities as follows:²⁴⁷

- 11 facilities were classified as Category One: facilities that would not meet the Commonwealth Government's certification requirements;
- 33 facilities were rated Category 2: facilities where there was a significant risk associated with failing, inadequate or obsolete infrastructure, resident safety, fire safety and/or occupational health and safety;
- 65 facilities were rated Category 3: facilities with limited economic life, deteriorating with age and requiring replacement in around 5 to 10 years; and
- 98 facilities were rated Category 4: facilities that met certification requirements and would not require redevelopment over the next 10 years.

3.2.1 Capital works strategy

Following the fabric survey, the Department developed a capital works strategy as a funding response to the identified risks. The strategy included three funding options. After reviewing the three funding options, the Department developed a capital works strategy which proposed rebuilding Category 1 and 2 facilities in addition to funding works in another five facilities where planning or works had already commenced. This funding option required \$305 million over 10 years with an urgent capital investment of \$230 million between 2002-03 and 2006-07.²⁴⁸

(a) Auditor-General's findings and recommendations

The Auditor-General examined how the capital works strategy had been developed and how the Department planned for the management of the condition of public sector residential aged care facilities. The Auditor-General acknowledged in his report that the Commonwealth Government determines the number of residential aged care places in each geographic area of the State and that this places limitations on the Department's decision-making in regard to the provision of places.²⁴⁹

The Auditor-General found that the Department's approach to planning for the management of the condition of public sector residential aged care facilities was based on the availability of funds, the results of periodic fabric surveys and service planning at an individual provider level. He concluded that the absence of state-wide infrastructure planning for public sector residential aged care facilities, linked through the capital works strategy to the Government's policy outcomes, meant that issues influencing future service delivery needs for public sector residential aged care across the State were not sufficiently considered in a coordinated manner.²⁵⁰

²⁴⁷ *ibid.*, p.30

²⁴⁸ *ibid.*

²⁴⁹ *ibid.*, p.31

²⁵⁰ *ibid.*, pp.30-33

Specifically, the Auditor-General found no evidence that the capital works strategy developed by the Department was:²⁵¹

- driven by consideration of higher level issues within each geographic area, such as the viability of providers and their ability to meet current and future community needs; and
- developed in the context of coordinated asset planning for public sector residential aged care facilities state-wide.

The Auditor-General recommended that DHS conduct state-wide infrastructure planning for public sector residential aged care linked to the Government's policy directions, to inform the development of future capital works strategies.²⁵²

The Auditor-General agreed with DHS that the Victorian Government's public sector residential aged care policy objectives are to be implemented over time, and that service planning is not an essential element.²⁵³

(b) Response by the Department of Human Services

The Department's response to the Auditor-General's finding stated that public sector residential aged care facilities are developed using DHS Capital Development Guidelines and with direct reference to the Government's public sector residential aged care policy. The Department stated that the following key elements are considered on a state-wide, regional and local level when planning services and determining capital investment priorities:²⁵⁴

- specific government policies and objectives in relation to health and aged care;
- service needs, including types of care and numbers of places, within the context of areas and places approved by the Commonwealth;
- new models of care;
- statutory requirements (Fire Risk Management Strategy; Occupational, Health and Safety; Certification etc.); and
- the existing condition and functionality of facilities.

The Department indicated that it would also continue to review and update its capital works requirements on an annual basis, consistent with the requirements of government's integrated management cycle.²⁵⁵

(c) Subsequent developments

In February 2008, the Committee requested comments from the Auditor-General on the Department's response to the recommendations made in the report. The Auditor-General stated that the Department had not addressed the issue as identified. Specifically, the Auditor-General advised:²⁵⁶

²⁵¹ *ibid.*, pp.30-31

²⁵² *ibid.*, p.57

²⁵³ *ibid.*, p.31

²⁵⁴ *ibid.*, pp.15-16

²⁵⁵ *ibid.*, p.16

²⁵⁶ Mr D Pearson, Auditor-General, Victorian Auditor-General's Office, letter to the Committee, received, 11 March 2008, p.8 and p.10

Contrary to the response, the audit found that infrastructure planning for public sector residential aged care facilities was conducted by DHS through local level service planning on a facility-by-facility basis with agencies.

DHS's comments suggest that its approach was analogous to a state-wide infrastructure plan for residential aged care facilities. Audit found no evidence to support this.

The Auditor-General restated that DHS should review its approach to planning to ensure that it adequately considers the longer-term service delivery needs of the entire State in a coordinated manner.

In February 2008, the Committee requested an update from DHS on the status of actions undertaken on the recommendations made in the Auditor-General's report. DHS's response reiterated that the role of the State in respect to the provision of residential aged care is primarily that of a service provider with the planning and number of residential aged care beds, their location and availability, the sole responsibility of the Commonwealth Government.²⁵⁷

DHS stated that the primary driver for State capital investment in residential aged care facilities over the past few years has been compliance with the Commonwealth Government's certification requirements (i.e. fire safety by 2005 and privacy and space by 2008). Since these have been achieved, *'priority has been given to replacing and upgrading facilities to address aging fabric and infrastructure and/or to improve the layout and amenity of the facility and to improve the operating efficiency of the facility.'*²⁵⁸

In its response to the Committee, the Secretary of DHS stated:²⁵⁹

Whilst the Department acknowledges that it is always possible to improve processes and will continue to do so in relation to capital planning, the approach currently in place is seen as appropriate and effective. The approach has resulted in considerable investment in public sector residential aged care facilities ensuring compliance with Commonwealth certification requirements, improved amenity for residents and continued access to public sector aged care services particularly in rural areas.

Further the Department indicated that the State Government's *'Public Sector Residential Aged Care Policy'* is currently under review with an updated policy due for release later in 2008 and a fabric survey of health and aged care facilities is due for completion in 2009 after which the capital investment requirements for public sector residential aged care services will be reviewed.²⁶⁰

At the Committee hearing on 27 March 2008, the Secretary of DHS advised that in terms of allocation of places, the Commonwealth Government determines this on a straight population share basis of people aged 70 years plus. In terms of planning the State's health care activities, the capital planning for health services, of which aged care facilities are a part, is extensive.

²⁵⁷ Ms F Thorn, Secretary, Department of Human Services, letter to the Committee, received 11 March 2008, p.7

²⁵⁸ *ibid.*, p.8

²⁵⁹ *ibid.*

²⁶⁰ *ibid.*

The Committee was also advised that DHS is currently developing a 10 year capital strategy for health services but in the past has worked with a multi-year strategy which requires the Department to project ongoing capital requirements in the health services sector. DHS also advised that, in a broader sense in respect to planning for aged care, the Department considers factors concerning the quality of care and changing service delivery arrangements. In addition, health services themselves conduct planning for service provision which takes into account changing residential aged care requirements.²⁶¹

DHS stated that it is in the process of developing a follow-up report for Government to its October 2006 report, '*Strategic Asset Planning for Health Services*', on the capital investment issues impacting the current and future asset base requirements of the Health portfolio (which includes aged care services).²⁶²

At the Committee hearing on 24 April 2008, the Auditor-General's Office maintained that while the Commonwealth determines the number of residential aged care places within each State, DHS has the ability to plan across Victoria as to where places should be located in terms of local need, viability of existing facilities and the mix of care provided. The audit report concluded that there was some room for improvement as to how DHS undertook state-wide strategic planning.²⁶³

The Committee acknowledges that this type of planning could serve to value-add, provide relevant and meaningful input and potentially influence the Commonwealth's global planning in this program area. However, the Committee also notes that the Commonwealth has the prime role in this regard. It agrees that the main focus of DHS should be on replacing and upgrading public aged care services in Victoria especially these in rural and regional Victoria and in metropolitan areas of socio-economic need. It sees little value in DHS presuming a planning role that simply duplicates what is meant to happen at Commonwealth level.

(d) Review

Comments contained in DHS's response to the report and evidence taken by the Committee at the audit hearing with representatives of the Department on 27 March 2008, indicated that the Department was of the view that there was a fundamental difference of opinion between it and the Auditor-General as to the governance arrangements surrounding residential aged care and that the Auditor-General seemed to have the view that the Department manages public sector residential aged care as a completely separate program.²⁶⁴

Evidence provided to the Committee by the Auditor-General at the audit hearing on 24 April 2008 disputed a misunderstanding by his Office of the governance arrangements surrounding aged care. The Auditor-General referred the Committee to the Executive Summary of the audit report which included an overview of the governance framework for residential aged care services.

Alternatively, DHS continues to emphasise that the Commonwealth Government is the primary player in the planning of the provision of aged care services in Australia with the Department having a lesser role in planning within the sector. DHS advised the Committee in its March 2008 response that it supports:²⁶⁵

²⁶¹ Ms F. Thorn, Secretary, Department of Human Services, transcript of evidence, 27 March 2008, pp.14-15

²⁶² Department of Human Services, response to the Committee's 2006-07 Financial and Performance Outcomes Part Two Questionnaire, received 22 February 2008, pp.43-44

²⁶³ Ms E. Holland, Senior Director, Victorian Auditor-General's Office, transcript of evidence, 24 April 2008, p.23

²⁶⁴ Ms F. Thorn, Secretary, Department of Human Services and Dr C Brook, Executive Director, Rural and Regional Health and Aged Care Services, transcript of evidence, 27 March 2008, pp.3, 13-14

²⁶⁵ Ms F Thorn, Secretary, Department of Human Services, letter to the Committee, received 11 March 2008, p.5

...a range of initiatives to improve the overall capacity of public sector residential aged care services to meet Commonwealth standards and drive continuous improvement. These, and the underpinning policy directions, are set out in the Public Sector Residential Aged Care Policy released in 2004. The department does not, however, have a direct planning, administrative or operational responsibility in relation to the provision of Commonwealth funded residential aged care services.

DHS states that it plays a 'major role in asset management, fire risk management and capital planning and development'.²⁶⁶ The Committee agreed with DHS's position that the Commonwealth Government is primarily responsible for aged care serviced in Australia. The Committee notes the efforts of DHS in taking on a planning role in the sector.

DHS also advised that, in terms of planning and demand management, DoHA convene an annual meeting with the Victorian Aged Care Planning Advisory Committee on which DHS is represented 'not with reference to its role as a designated Approved Provider, but with reference to its role as the responsible State authority in relation to the provision of health and other human services in Victoria'.²⁶⁷ Aged Care Planning Advisory Committees 'exist in each State and Territory to provide advice on the distribution of new places among aged care planning regions'.²⁶⁸

At the Committee hearing on 24 April 2008, the Auditor-General expressed the view that portfolio departments, such as DHS, have a coordination, facilitation and oversight role to perform with the agencies delivering the services, which go beyond policy setting. He suggested there was perhaps a need for clarification of the roles and responsibilities of such departments.²⁶⁹

The Committee notes there appears to be conflicting messages conveyed by the Auditor-General and by DHS in terms of roles and responsibilities as far as public sector residential aged care infrastructure planning within the State. The Committee is of a clear view that aged care is a federal matter and that policy planning in this sector is the responsibility of the Commonwealth government. However, given the large number of public aged care facilities in Victoria, DHS clearly has a role in co-ordinating future capital works investment in this area. The Committee encourages DHS to adopt a pro-active, strategic role aimed at investment in those areas of greatest Victorian community need and which is consistent with the Department's broad charter under the 'Public Sector Residential Aged Care Policy', to improve care and access and enhance the State's management of aged care system components and service configurations.

(e) Conclusion

DHS has a role in overseeing and ensuring that resources provided for aged care services are directed to the areas of highest need for Victorians. The Committee views this as part of DHS's stewardship role as it relates to the provision of aged care services in Victoria by state instrumentalities as Approved Providers.

The Victorian Government has invested a substantial amount of funds, over \$420 million towards improving public sector aged care facilities, and the Committee commends the Government's investment.

The Committee notes the 2001 fabric survey which has provided the baseline data for the recent substantial investment in the sector. This needs to be continuously updated and reassessed by the Department with a view to seeking capital funds as required from government for continuous improvement and upgrading of facilities.

²⁶⁶ *ibid.*

²⁶⁷ *ibid.*, pp.17-18

²⁶⁸ www.health.gov.au, accessed 16 October 2008

²⁶⁹ Mr D. Pearson, Auditor-General, Victorian Auditor-General's Office, transcript of evidence, 24 April 2008, p.18

The Committee recommends that:

Recommendation 1: **The Department of Human Services continue to undertake planning on future capital works needs of public sector aged care facilities in order to strategically invest in meeting the needs of the Victorian community.**

3.2.2 Risk management strategy

Following the fabric survey in 2001, DHS developed the 2002 capital works strategy which established progressive redevelopment of public sector residential aged care facilities over a 5 year period. As a result, public sector residential aged care facilities were redeveloped according to the needs established in the fabric survey with some facilities identified as less urgent, therefore being redeveloped towards the end of the 5 year period.²⁷⁰

(a) Auditor-General's findings and recommendations

In his report, the Auditor-General noted that action to address fire safety risks and risks associated with stricter Commonwealth certification requirements were managed under DHS's Fire Risk Management Strategy and State-wide Certification Project. However, he reported that DHS had not developed a broader risk management strategy to monitor whether providers were taking adequate action to address the issues identified in the fabric survey and to mitigate the risks identified until such time as remedial works could be undertaken. The report acknowledged that this, in itself, did not mean that the risks were not being adequately managed at the local level.²⁷¹

The report recommended that DHS develop a risk management strategy for public sector residential aged care to ensure that risks from failing, obsolete or inadequate infrastructure are, in fact, being managed by service providers to mitigate any potential risks to residents.²⁷²

(b) Response by the Department of Human Services

DHS responded that the management of risks associated with ageing facilities is supported by the Department's state-wide fabric survey, the Fire Risk Management Strategy and local risk management processes. DHS advised that it was working with the Department of Treasury and Finance (DTF) on the roll-out of the Asset Management Framework which is aimed at strengthening asset management and improving accountability and monitoring. It is also envisaged that the Framework will enhance DHS's and providers' ability to manage any risks associated with ageing infrastructure.²⁷³

In the *Response by the Minister for Finance to the Auditor-General's Reports 2006-07*, DHS stated that it considered that adequate risk management strategies were in place to deal with any risks arising from ageing infrastructure.²⁷⁴

²⁷⁰ Victorian Auditor-General's Office, *Condition of public sector aged care facilities*, August 2006, p.32

²⁷¹ *ibid.*, p.33

²⁷² *ibid.*, p.57

²⁷³ *ibid.*, p.16

²⁷⁴ Department of Treasury and Finance, *Response by the Minister for Finance to the Auditor-General's Reports 2006-07*, p.36

(c) Subsequent developments

The Auditor-General advised the Committee in March 2008, that DHS's response, as contained in the *Response by the Minister for Finance to the Auditor-General's Reports 2006-07*, did not address the issue identified in the audit. The Auditor-General reiterated to the Committee that DHS had not developed a broad risk management strategy aimed at satisfying itself that appropriate action was being undertaken by service providers to address the issues identified through the fabric survey or to mitigate any identified risks until such time as they could be addressed.²⁷⁵

In response to a request from the Committee for an update on the matters raised in the Auditor-General's report, DHS advised that individual health service providers have their own risk management processes in place, overseen by a Board of Management. The general conditions of funding contained in *Victoria—public hospitals and mental health services—Policy and funding guidelines 2007-08* identify the importance of risk management and provide guidance to health services in regard to appropriate risk management processes.

In addition, health services are covered by DHS sponsored insurance arrangements placed with the Victorian Managed Insurance Agency (VMIA). The *Victorian Managed Insurance Agency Act 1996* requires health service providers to develop and implement a risk management strategy and in mid 2006, the VMIA commenced a program of rolling three year cycle, Risk Quality Framework Reviews to assist health service providers to meet their risk management obligations under the Act. The Committee was advised that the VMIA also undertakes three yearly site risk survey assessments of all health services which control facilities valued at in excess of \$50 million.

With regard to DHS's risk management strategy, the Committee was advised that the Department's current Risk Management Framework identifies a number of priority risk areas, of which two relate directly to the condition of facilities, including residential aged care. DHS advised that risks are formally assigned to the Department Executive Directors and are reviewed on a quarterly basis by DHS Risk Committee. Risks are assessed at both a Regional and Divisional perspective to ensure that issues are identified and appropriate risk treatments developed.²⁷⁶

(d) Conclusion

The Committee received evidence at the audit hearing on 27 March 2008, from the Secretary of DHS that over the last couple of years, the Department has worked extensively on risk management strategies at a framework level, within the Department itself and also as a funding body, coordinator and service provider and that risk management responsibilities are firmly vested in the Department's governance arrangements.²⁷⁷

Also, as noted in Chapter 1 of this report, DHS advised that each of the health service providers under the Health Services Act is vested with a governance structure, either with a Board of Management or a Board of Directors and the functions of these Boards, as specified in the Act, include ensuring that "*effective and accountable risk management systems are in place*".²⁷⁸

²⁷⁵ Mr D Pearson, Auditor-General, letter to the Committee, received, 11 March 2008, pp.10-11

²⁷⁶ Ms F Thorn, Secretary, Department of Human Services, letter to the Committee, received 11 March 2008, p.9

²⁷⁷ Ms F. Thorn, Secretary, Department of Human Services, transcript of evidence, 27 March 2008, p.13

²⁷⁸ Ms F Thorn, Secretary, Department of Human Services, letter to the Committee, received 11 March 2008, p.20

The Auditor-General's report focussed on the absence within DHS of a broader risk management strategy designed to satisfy the Department that service providers were taking appropriate action to mitigate the risks identified through the fabric survey. DHS advised the Committee that it does not have a separate risk management strategy for residential aged-care facilities because aged care is not operated by the Department as a completely separate program and there are already a number of requirements for risk management frameworks imposed upon health services by the VMIA, the Health Services Act and DHS funding and service agreements.

Over the past decade, risk management has become a more important factor in the achievement of a good governance framework and effective performance management in both the corporate and public sectors. In respect to the management of aged care facilities, risk management is critical to the discharge of DHS's ultimate responsibilities as the owner of the facilities. The Committee acknowledges the efforts taken by DHS in recent years to improve the identification and management of risks at both a Departmental level and health service provider level and concurs with the Department that a risk management plan solely for residential aged care facilities is not warranted.

3.3 Department of Human Services Management

The Auditor-General's report included an assessment of how well DHS managed actions taken to address the condition of residential aged care facilities identified in the 2001 fabric survey. In addressing this question, the Auditor-General examined how DHS:²⁷⁹

- managed its capital works program;
- managed the risks to safety, and to achieving compliance with known 2008 certification requirements;
- monitored the management and maintenance of facilities; and
- funded maintenance of facilities.

Each of these areas is covered in the following sections.

3.3.1 *Managing the capital works program*

As stated in section 3.2.1 of this report, DHS developed its 2002 capital works strategy, following the completion of its 2001 fabric survey. Since 2000, \$420 million has been allocated for the replacement or upgrade of public sector aged care facilities in Victoria.²⁸⁰

(a) Auditor-General's findings and recommendations

The Auditor-General found that, almost 5 years after the fabric survey had been completed, 21 facilities (64 per cent) identified in the survey as "Category 2" (i.e. facilities where there was a significant risk associated with failing, inadequate or obsolete infrastructure, resident safety, fire safety, and/or occupational health and safety) had yet to be rebuilt. The Report indicated that DHS had advised that all 21 facilities had been afforded some investment through the Fire Risk Management Strategy and a further 6 facilities through the State-wide Certification Project aimed at improving fire safety and/or facility condition.²⁸¹

²⁷⁹ Victorian Auditor-General's Office, *Condition of public sector aged care facilities*, August 2006, p.33

²⁸⁰ Ms F Thorn, Secretary, Department of Human Services, letter to the Committee, received, 11 March 2008, p.6

²⁸¹ Victorian Auditor-General's Office, *Condition of public sector aged care facilities*, August 2006, p.36

The Auditor-General reiterated his comments that DHS had not considered future service delivery needs across the State as a whole when developing its capital works strategy but rather on an isolated case by case basis for individual capital works proposals.²⁸²

The report recommended that DHS review and update its existing capital works strategy for public sector residential aged care facilities to ensure that it adequately considers the longer-term service delivery requirements of the sector and government policy outcomes.²⁸³

(b) Response by the Department of Human Services

DHS's response as included in the *Response by the Minister for Finance to the Auditor-General's Reports issued during 2006-07* stated that the capital works program for all health and aged care facilities is updated annually via update of the Multi Year Strategy (MYS) and that capital works planning takes into account future service needs and government policy in relation to residential aged care service provision.²⁸⁴

(c) Subsequent developments

In March 2008, the Auditor-General advised the Committee that DHS's response as detailed in the Minister for Finance's report did not address the issue identified by the audit. The Auditor-General stated that while the response of DHS suggests that it considers future service delivery needs and government residential aged care policy in its capital works planning, the audit review found:²⁸⁵

- in determining its 2002 capital works strategy, the main factors considered by DHS were the condition of the facilities, compliance with Commonwealth certification standards and the cost of works required;
- no evidence that capital works options involved an analysis of state-wide capital investment implications and/or priorities arising from government policy directions; and
- the criteria used by DHS to assess the consistency of individual capital proposals with the Government's policy had not been defined.

In response to the Committee's request for action taken to address the Auditor-General's recommendations, DHS again stated that, in accordance with State Government requirements, capital requirements of all the Department programs, including health and aged care, are incorporated and updated annually in the MYS which details the anticipated capital requirements of the Department over the following 10 years. DHS advised that the most recent review and update of the MYS had been completed in November 2007.²⁸⁶

DHS also advised that all capital works projects in excess of \$5 million must include the development of a detailed business case which includes consideration of the need for the investment, the age profile of the area being served by the facility, current and future bed requirements, advice on the specific policy objectives and outcomes that will be achieved and how the proposal fits within a state-wide context.²⁸⁷

²⁸² *ibid.*, pp.34-37

²⁸³ *ibid.*, p.57

²⁸⁴ *Response by the Minister for Finance to the Auditor-General's Reports issued during 2006-07*, p.36

²⁸⁵ Mr D Pearson, Auditor-General, Victorian Auditor-General's Office, letter to the Committee, received, 11 March 2008, p.11

²⁸⁶ Ms F Thorn, Secretary, Department of Human Services, letter to the Committee, received, 11 March 2008, p.8

²⁸⁷ *ibid.*

DHS advised the Committee that since 2000, the State Government has allocated over \$420 million for the replacement and/or upgrade of public sector residential aged care facilities.²⁸⁸ This funding allocation has been made across forty-five facilities (the majority of which are in rural and regional Victoria) and included all of the eleven facilities identified as 'Category 1' in DHS's 2001 fabric survey.²⁸⁹

In relation to the eleven 'Category 1' facilities identified by DHS in the 2001 fabric survey as "at risk of failing the Commonwealth 2008 certification standards for privacy and space" the Department advised the Committee in March 2008 that:²⁹⁰

- nine facilities have had funding provided by the Government and have been or are being rebuilt;
- one facility has been replaced using health service funds; and
- one facility has closed.

At the audit hearing on 27 March 2008, the Committee asked DHS to provide details of the current status of the thirty-three facilities identified as 'Category 2' in the Department's 2001 fabric survey.

In September 2008, DHS provided Table 3.1 which indicates that, seven years after the fabric survey was completed, eleven facilities have been redeveloped and/or refurbished and four facilities are in the process of being redeveloped. Of the remaining eighteen facilities, planning has been completed in nine of the facilities, two have been closed and seven are to be reviewed again as part of the 2009 fabric survey currently underway.²⁹¹

²⁸⁸ *ibid.*, p.6

²⁸⁹ *ibid.*, Attachment 2: Funded Capital Projects

²⁹⁰ *ibid.*, p.16

²⁹¹ Ms F Thorn, Secretary, Department of Human Services, letter to the Committee, received, 12 September 2008, pp.4-5

Table 3.1 Status of 'Category 2' public sector aged care facilities (2001 fabric survey)

Category 2 Facilities (2001)		
Auspice	Facility	Comments
Bairnsdale Regional Health Service	Jacaranda House Hostel	Redeveloped
Ballarat Health Services	Midlands Hostel	Closed
Ballarat Health Services	Pleasant Home Hostel	Closed
Barwon Health	Hiliary Blakiston	Redeveloped
Bayside Health	Caulfield Hospital Nursing Home	Redeveloped
Darlingford Upper Goulburn	Darlingford Upper Goulburn N.H.	Redeveloped
East Wimmera Health Service	Kara-Linga Nursing Home	Service planning complete
East Wimmera Health Service	Kara Court Nursing Home	Service planning complete
East Wimmera Health Service	Charlton Hostel	Service planning complete
East Wimmera Health Service	Birchip Nursing Home	Service planning complete
Edenhope & District Hospital	Kowree Nursing Home Unit	Planning undertaken
Gippsland Southern Health Service	Koorooman House Nursing Home	Redevelopment in Progress
Glenview Community Care	Glenview Comm.Care Nursing Home	Self funded 12 bed extension
Kerang & District Hospital	Glenarm Nursing Home	Planning undertaken
Kooweerup Regional Health Service	Westernport Nursing Home	Redevelopment commenced
Mallee Track Health & Community Service	Dr RW Pattison Hostel	Requirements to be reviewed
Melbourne Health	Weighbridge Residential Care Facility	Requirements to be reviewed
Nathalia District Hospital	Banawah	Under construction

Category 2 Facilities (2001)		
Auspice	Facility	Comments
Numurkah District Hospital	Karinya Nursing Home (formerly Baala House)	Redeveloped
Peninsula Health	Lotus Lodge Hostel	Planning undertaken
Peninsula Health	Michael Court Hostel	Planning undertaken
Portland Hospital	Seymour Cundy Wing Nursing Home	Redeveloped
Red Cliffs & Community Aged Care Services	Red Cliffs Nursing Home	Redeveloped
Robinvale District Health Services	Riverside Hostel	Requirements to be reviewed
Rural Northwest Health	Warracknabeal Hospital - J.R. & A.E. Landt Nursing Home	Redevelopment in Progress
Seymour District Memorial Hospital	Seymour District Nursing Home	Redeveloped
South West Healthcare	Merindah Lodge Nursing Home	Requirements to be reviewed
Southern Health	A. G. Eastwood Hostel	Planning undertaken
Terang And Mortlake Health Service	Mount View Aged Care Facility	Requirements to be reviewed
Western District Health Service	Grange Residential Care Service	Self funded refurbishment
Western Health	Reg Geary Nursing Home	Requirements to be reviewed
Williamstown Hospital	Hazeldean Nursing Home	Requirements to be reviewed
Yarrawonga District Health Service	Warrina Hostel	Self funded refurbishment

DHS advised that the comment *'requirements to be reviewed'*, against seven facilities identified in Table 3.1 means that this will be addressed as part of the current fabric survey, due for completion in 2009.²⁹²

²⁹² *ibid.*, p.5

3.3.2 Fire Safety and Certification

Prior to the 2001 fabric survey, DHS had developed the Fire Risk Management Strategy and the State-wide Certification Project to address safety standards and to achieve Commonwealth certification requirements. Both of these programs continued following the fabric survey.²⁹³

(a) Fire Risk Management Strategy

In 1997, DHS introduced the Fire Risk Management Strategy (FRMS) across the health portfolio in recognition of the importance of fire safety, its duty of care to clients and staff and changing building regulations in respect to fire safety. The objective of the FRMS is to ensure an appropriate level of fire safety in residential facilities for which DHS has a responsibility (i.e. all the Department owned and operated bed-based 24 hour care facilities).²⁹⁴

The FRMS includes:²⁹⁵

- fire safety audits and risk assessments by fire engineers to assess fire safety systems and to determine performance-based requirements for each facility; and
- works to upgrade fire safety in all 24 hour care facilities, including residential aged care facilities, to meet the performance based requirements of the *Building Code of Australia 1996* (BCA96).

The Auditor-General's report indicated that approximately \$164 million had been spent on the FRMS across DHS portfolio between July 1997 and March 2006, \$43 million of this was allocated to residential aged care facilities.²⁹⁶

(i) Auditor-General's findings and recommendations

The audit involved an examination of documentation at twenty-five public sector residential aged care facilities subjected to the FRMS to determine the soundness of the program and whether it established an appropriate level of assurance of facilities' compliance with the requirements of the Building Code of Australia (BCA) in relation to fire safety.²⁹⁷

The Auditor-General reported that DHS had invested significant effort into ensuring that public sector residential aged care facilities were safe and had complied with the performance requirements of the BCA96. However, while DHS's internal processes for the FRMS were adequate for its purposes, they did not meet the industry requirements established under the Building Act and the BCA. As such, the Auditor-General concluded that it was unclear whether works conducted under the FRMS had, in all cases, resulted in facilities achieving the relevant BCA performance requirements.²⁹⁸

²⁹³ Victorian Auditor-General's Office, *Condition of public sector aged care facilities*, August 2006, p.37

²⁹⁴ *ibid.*

²⁹⁵ *ibid.*, p.38

²⁹⁶ *ibid.*

²⁹⁷ *ibid.*

²⁹⁸ *ibid.*, pp.39-41

The Auditor-General recommended that DHS take action to improve the level of assurance provided by the FRMS by:²⁹⁹

- ensuring that building surveyors evaluate alternative solutions proposed by fire engineers in accordance with the requirements of the BCA, and that associated decisions are documented and appropriately approved;
- requiring building permits/approvals to be obtained for all essential services upgrade works and that the building surveyor signs-off on completed works to provide assurance that works have resulted in achieving compliance with the BCA requirements;
- ensuring that the scope of fire safety audits is sufficient to support the statement of compliance made by fire engineers and building surveyors, and that fire safety systems are routinely tested; and
- ensuring that appropriate documentation of dispensations granted, approved alternative solutions and verification of the compliance status of implemented works is completed and maintained, so that safety assurances can be evidenced, audits are properly based and an audit trail is maintained.

During the audit, DHS advised the Auditor-General that the issue was one of poor documentation rather than non-compliance with required safety standards. Whilst this was acknowledged in the report, the Auditor-General maintained that there was a lack of appropriate evidence to provide the necessary assurances that all fire safety issues had been adequately addressed in public sector residential aged care facilities.³⁰⁰

(ii) Response by the Department of Human Services

DHS responded that all facilities had been audited by a qualified fire engineer and individually inspected and assessed against a range of criteria. Major fire safety works had been undertaken in facilities and all facilities had smoke detectors and fire sprinklers installed. DHS acknowledged that improvements in relation to maintaining relevant documentation could be made and gave an undertaking to work with service providers to ensure that this occurs.³⁰¹

In its response as included in the *Response by the Minister for Finance to the Auditor-General's Reports issued during 2006-07*, the Department indicated that it had undertaken a review of the FMRS procedures and guidelines and that the revised "*FRMS Series 7 Guidelines*" included '*improved documentation to better demonstrate how the implementation of specific fire audit recommendations are dealt with by Building Regulation approvals*'. DHS's response also indicated that an independent building surveyor had inspected each of the 25 facilities covered in the audit report to ensure all documentation is satisfactory and any minor works issues are addressed.³⁰²

²⁹⁹ *ibid.*, p.57-58

³⁰⁰ *ibid.*, p.41

³⁰¹ *ibid.*, p.17

³⁰² Department of Treasury and Finance, *Response by the Minister for Finance to the Auditor-General's Reports issued during 2006-07*, p.37

(iii) Subsequent developments

In February 2008, the Committee requested the Auditor-General comment on DHS's response as included in the *Response by the Minister for Finance to the Auditor-General's Reports issued during 2006-07*. The Auditor-General stated that the information contained in DHS's response made it unclear whether all aspects of the recommendation had been adequately addressed and not just the issue of poor documentation.

In February 2008, the Committee also requested an update from DHS in relation to its review of the FRMS procedures and guidelines and the status of any capital works identified by the Auditor-General as being at risk in terms of fire safety. DHS advised that the Fire Risk Management (FRM) Guidelines and policy review had been completed and approved in principle by DHS Risk Committee. The Department advised the key improvements to the Guidelines, relevant to the audit report, as follows:³⁰³

- Upgrade of the Annual FRM Certification process to include the date of the latest fire audit/risk assessment report, identification of any outstanding works together with an action plan, operational readiness status and Essential Safety Measures Report status;
- Update of fire audit processes to improve links to the BCA. Fire engineers will be required to undertake performance assessments against each deviation from the BCA requirements which will enable building permits to be issued and signed off on specific items. The FRM Engineering Guideline in respect of fire audits has also been strengthened to improve audit processes and the level of documentation in relation to fire audit outcomes to improve the audit trail; and
- The revised fire audit process will require the fire engineer/building surveyor to review the BCA classification for facilities against existing documentation and information from the service provider and amend documentation to correct any discrepancies.

In addition, DHS advised in its March 2008 response to the Committee that there is a statutory requirement under the *Aged Care Act* for every residential aged care provider to submit an annual fire safety declaration to the DoHA by 31 March in each calendar year.³⁰⁴

In relation to the 25 facilities selected for review by the Auditor-General, DHS advised that it had established a project involving:³⁰⁵

- Inspection of each facility by an independent building surveyor;
- Identification of actions to be taken in terms of dispensation, modification, maintenance and minor capital works; and
- Revision of the Certification Tool Kit (developed in 2003 to assist health providers achieve Commonwealth certification) arising from the review of the FRM Guidelines and any matters arising from the inspections. The Tool Kit revision will be finalised once the FRM Guidelines are approved.

Further, in its response, DHS provided the Committee with a schedule of works proposed and/or completed as at February 2008, in respect to the 25 facilities identified in the audit. To date, these works total an estimated cost of \$456,000.³⁰⁶

³⁰³ Ms F Thorn, Secretary, Department of Human Services, letter to the Committee, received, 11 March 2008, p.11-12

³⁰⁴ *ibid.*, p.3

³⁰⁵ *ibid.*, p.12

³⁰⁶ *ibid.*, Attachment 3: List of Works

At the Committee hearing in March 2008, the Committee asked DHS whether all facilities were acceptable in terms of fire safety. The Secretary of DHS stated:³⁰⁷

DHS applies the same fire safety standards to all its bed-based services, from an intensive-care unit to a neonatal unit to an aged-care bed, and we have no reason to believe that these facilities are not safe.

The Committee was advised that DHS had taken account of the points raised by the Auditor-General in relation to the FRMS and considers that the revised FRM Guidelines are aimed at “ensuring that the specific roles of fire engineers, building surveyors and building approvals process is better documented and better linked.”³⁰⁸

In September 2008, in response to a request from the Committee for further information, the Department advised that the new FRM Guidelines had been endorsed by DHS Executive in April 2008. Consultants had been engaged in November 2006 to review each of the 25 facilities identified in the Auditor-General’s report and arrange any necessary works. These works were completed in June 2008. The Department also advised that the revision of the *Commonwealth Certification of Aged Care Facilities Information Kit* has been completed and is ready for distribution.³⁰⁹

Also in September 2008, the Department provided Table 3.2 which sets out the Commonwealth and State reporting requirements in relation to the management of fire safety in public sector residential aged care facilities.³¹⁰

³⁰⁷ Ms F. Thorn, Secretary, Department of Human Services, transcript of evidence, 27 March 2008, p.8

³⁰⁸ Dr C Brook, Executive Director, Rural and Regional Health and Aged Care Services, Department of Human Services, transcript of evidence, 27 March 2008, p.12

³⁰⁹ Ms F Thorn, Secretary, Department of Human Services, letter to the Committee, received, 12 September 2008, p.12

³¹⁰ *ibid.*, p.3

Table 3.2: Commonwealth and State Fire Safety Reporting Requirements for Public Sector Residential Aged care Facilities

Commonwealth Reporting Requirements	State Reporting Requirements
<p>Accreditation</p> <ul style="list-style-type: none"> Under the Aged Care Act, four standards with 44 expected outcomes are established that all providers must meet, including 8 outcomes that specifically related to physical environment and safe systems (under Standard 4). Expected outcome 4.6 relates to Fire, security and other emergencies, with an expected outcome that "Management and staff are actively working to provide an environment and safety systems of work that minimise fire, security and emergency risks". Compliance with the Commonwealth aged care accreditation standards is reviewed at least annually by the Aged Care Standards and Accreditation Agency (ACSAA), and each service is subject to a full accreditation audit at least every three years. If non-compliance is found, the Commonwealth Government can impose a range of sanctions on the facility, the most serious of which would be revocation of approved provider status. <p>Certification</p> <ul style="list-style-type: none"> To achieve certification a health service must demonstrate that it meets the requirements for higher standards for fire safety as assessed against the Commonwealth certification tool. There is a statutory requirement under the Aged Care Act for every residential aged care service to submit an annual fire safety declaration to the Commonwealth Department of Health and Aging by 31 March of each calendar year. 	<p>DHS Fire Risk Management Strategy (FRMS)</p> <p>The department's Fire Risk Management Strategy includes:</p> <p>FRMS Guidelines The guidelines set policy and the mechanism for reporting on fire safety.</p> <p>FRMS Audit Regime The FRMS is a continuing program. To ensure fire safety is maintained a regime of regular fire audits has been put in place. The FRMS Guidelines require health services to undertake fire audits at regular intervals.</p> <p>FRMS Accountabilities Responsibility for managing facilities including public sector residential aged care services is the responsibility of the relevant health service.</p> <p>To ensure that agencies carry out their FRM related responsibilities, they are required to submit an annual compliance certificate. These certificates are assessed annually by DHS executive, with any non-compliance followed up by departmental staff.</p>

Source: Department of Human Services.

With respect to fire safety audits, DHS advised the Committee, that the new FRM guidelines require residential aged care facilities to undergo a fire safety audit/risk assessment every ten years 'with a review of the report after five years to confirm that the fire safety strategy is being satisfied'. For smaller domestic scale facilities, the guidelines allow for a fire safety compliance check, rather than the more detailed fire safety audit, to be undertaken at five year intervals.³¹¹

³¹¹ *ibid.*

(iv) Review

The Committee acknowledges the past efforts of DHS in developing the FRMS which was endorsed in 1997. DHS advised that, at the time, the FRM guidelines were recognised in the fire safety industry as being the first of their kind and that they have received recognition from the Building Control Commission and fire authorities. The Committee was advised that based on DHS's risk management approach, in some areas, the guidelines impose higher levels of compliance for departmental facilities than currently required under the relevant building codes.³¹²

The Auditor-General noted at the Committee hearing in April 2008 that DHS had undertaken works to rectify fire safety related items identified during the audit and had acted to establish an evidence base to support the fire safety status of facilities. He stated that the FRMS is a commendable initiative which if well managed should provide an effective means of mitigating risks in bed-based facilities.³¹³

The Committee considers that the main point is the need for a rigorous and reliable system in place to assure management that the organisation is meeting the regulatory requirements within which it is operating and most importantly to ensure the safety of staff and residents. The Auditor-General's criticism in relation to DHS's application of the FRMS was that the system within the Department and service providers was not evidenced or at least documented in a way which provided assurance and demonstrated that an appropriate duty of care was being taken. DHS has advised the Committee that action has been taken to improve the standard of documentation in relation to fire audit processes.

In relation to fire safety audits, DHS advised, in its March 2008 response to the Committee that the FRM guidelines require health services to undertake fire audits at regular intervals to ensure fire safety is maintained.³¹⁴

At the Committee hearing with DHS in March 2008, the Executive Director, Rural and Regional Health and Aged Care Services, indicated that fire safety audits would take place under the revised Guidelines every five years although to date, they had been taking place roughly every three years.³¹⁵

During the audit, the Auditor-General examined documentation relating to the fire safety audits required under the guidelines and expressed some concerns about the limited scope of the audits, the substantial exclusion clauses in the audit reports and the assessments against incorrect building classifications.³¹⁶

(v) Conclusion

The Committee concurs with the Auditor-General's finding that DHS had invested significant effort into ensuring public sector aged care facilities were safe and compliant with BCA96.

The Committee notes that DHS has taken action to address some of the concerns identified above in its revised FRMS guidelines. It is unclear however, whether the scope of the fire safety audits has been reviewed by DHS and also unclear is the Department's rationale for extending the frequency of fire safety audits from three to five and even up to ten year intervals.

³¹² Ms F Thorn, Secretary, Department of Human Services, letter to the Committee, received, 11 March 2008, p.10

³¹³ Mr D. Pearson, Auditor-General, transcript of evidence, 24 April 2008, p.15

³¹⁴ Ms F Thorn, Secretary, Department of Human Services, letter to the Committee, received, 11 March 2008, p.10

³¹⁵ Dr C Brook, Executive Director, Rural and Regional Health and Aged Care Services, Department of Human Services, transcript of evidence, 27 March 2008, p.8

³¹⁶ Victorian Auditor-General's Office, *Condition of public sector aged care facilities*, August 2006, p.40

The Committee notes that DoHA, on behalf of the Commonwealth Government requires health services providers to submit annual fire safety declarations, and that this matter is a Commonwealth responsibility. There would be value in DHS seeking further information from the Commonwealth on this process. Such information would assist DHS in deciding whether the frequency of fire safety audits is appropriate, as well as reassure DHS that it is meeting its duty of care obligations to both residents and staff of public sector aged care facilities.

The Committee recommends that:

Recommendation 2: **The Department of Human Services review the scope of fire safety audits required under the *Fire Risk Management Guidelines*, as highlighted by the Auditor-General, to ensure that they constitute a comprehensive review including operational testing of a facility's fire safety systems.**

(b) Managing the State-wide Certification Project

Commonwealth Certification allows an aged care service provider access to additional funding sources such as accommodation bonds paid by residents and Australian Government subsidy payments for concessional residents. In 2000, DHS introduced the State-wide Certification Project (SCP) to ensure that facilities achieved the Commonwealth Government's 1997 certification standards, the 1999 certification fire safety standards (to be achieved by 2005) and the privacy and space requirements, to be achieved by 2008. Between the introduction of the project and December 2005, the Department had allocated \$6.7 million to the SCP.³¹⁷

(i) Auditor-General's findings and recommendations

The Auditor-General's report highlighted a number of deficiencies in the SCP process undertaken by DHS which had the potential to compromise the results of the project. Despite these concerns, the report noted that all 195 public sector residential aged care facilities had been assessed as having met the 2005 fire safety requirements and that all were on track to meet the 2008 privacy and space requirements. The report also noted that the DoHA website indicated that each of the facilities has met the 1999 certification requirements and the 2005 targets for fire safety.³¹⁸

(ii) Subsequent developments

At the hearing, the Committee asked representatives from DHS to provide an update on the replacement and rebuilding program to meet the Commonwealth Government 2008 certification requirements. DHS advised that the 2008 standards require, as a maximum, four bed wards with a certain number of toilet and bathroom facilities per number of residents. When the 2008 standards were first established by the Commonwealth, DHS identified eleven facilities through its 2001 fabric survey which would not meet the new privacy and space standards (i.e. 'Category 1' facilities). The Committee was advised that one of the facilities was closed as a result of other redevelopment and the remaining facilities have all been redeveloped with the exception of the

³¹⁷ Victorian Auditor-General's Office, *Condition of public sector aged care facilities*, August 2006, p.41
³¹⁸ *ibid.*, p.43

replacement of the Kingston facility which is currently under construction and is due for completion in December 2008.³¹⁹

In September 2008, DHS provided Table 3.3 which sets out details of amounts allocated by the State Government since 2000-01 for the upgrade of public sector residential aged care facilities to satisfy the Commonwealth Government's 2008 certification standards for privacy and space.³²⁰

Table 3.3 Approved Total End Investment (TEI) for upgrade of public sector aged care facilities to meet 2008 Commonwealth Certification standards

Health Service	Name	Approved TEI 2000/01 to 2007/08 \$m	Comments
Barwon Health	McKellar Centre	39.0	Construction complete
Colac Area Health	Corangamarah (formerly Polworth House Nursing Home)	14.0	Construction complete
East Grampians Health Service	70 Lowe Street (formerly John Pickford House)	7.5	Construction complete
Lyndoch Warrnambool Inc	Lyndoch Nursing Home	11.0	Construction complete
Maryborough District Health Service	Maryborough Nursing Home	8.5	Construction complete
Mt Alexander Hospital	Mt Alexander Nursing Home	9.9	Construction complete
Northeast Health Wangaratta	Wangaratta & District Nursing Home	11.0	Construction complete
Southern Health	Kingston Centre Nursing Home	34.5	Replacement facility at Casey under construction
Yarrawonga District Health Service	Karana (formerly Yarrawonga Nursing Home)	10.5	Construction complete

Source: Department of Human Services.

(iii) Conclusion

The Committee commends the efforts of DHS and the State Government's significant financial investment of \$145.9 million in the replacement and upgrade of Victorian public sector residential aged care facilities to ensure that all facilities meet the Commonwealth Government's 2008 privacy and space certification requirements.

³¹⁹ Ms J Herrington, Director, Aged Care, Department of Human Services, transcript of evidence, 27 March 2008, p.6 and p.11

³²⁰ Ms F Thorn, Secretary, Department of Human Services, letter to the Committee, received, 12 September 2008, p.4

(c) Monitoring the use of the Commonwealth Government specific purpose grant

In May 2004, the Commonwealth Government made a one-off grant of \$3,500 per place to all approved residential aged care service providers throughout Australia. This grant was provided in support of the Commonwealth's 10 year forward plan for improving residential aged care building standards by 31 December 2005 and 2008. The grant could be used to:³²¹

- update or improve fire safety standards;
- demonstrate compliance with the 1999 Aged Care Certification Assessment Instrument;
- undertake building upgrades to meet the benchmarks of the Commonwealth's 10 year forward plan for certification; or
- ensure that "high-care" residents are accommodated in buildings of the appropriate building classification.

Providers were required to make an acquittal for expenditure of the grant to the Commonwealth Government.

In June 2004, DHS instructed all Victorian public sector residential aged care providers to set aside their grant into a special purpose fund until expenditure guidelines were developed by the Department. These Guidelines prescribed:³²²

- that agreement be reached with DHS regarding the use of the grant monies before they could be spent;
- the process by which providers were required to seek approval of expenditure from DHS; and
- the criteria used by DHS to approve expenditure to guide providers in making their submissions.

(i) Auditor-General's findings and recommendations

In the report, DHS advised the Auditor-General that public sector residential aged care providers received Commonwealth grants totalling approximately \$20 million during 2004. The Auditor-General found that DHS had approved forty-five submissions from thirty-seven aged care providers to the value of \$6.9 million. It was unknown whether all providers had sought its approval before spending the grant. DHS was aware of only eleven providers which had unexpended grant monies totalling approximately \$1.2 million.³²³

The Auditor-General estimated, in his report, that around \$13 million (65 per cent) of the Commonwealth specific purpose grant monies, provided to Victorian public sector residential aged care providers, may have been unspent as at that time. DHS advised the Auditor-General that it intended to seek acquittals for these funds from service providers.³²⁴

³²¹ Victorian Auditor-General's Office, *Condition of public sector aged care facilities*, August 2006, pp.43-44

³²² *ibid.*, p.44

³²³ *ibid.*, p.45

³²⁴ *ibid.*

The Auditor-General commented in his report that the active involvement of DHS in overseeing the use of the specific purpose grant paid by the Commonwealth Government to assist providers to meet certification requirements, was indicative of the Department's coordination and stewardship role in public sector residential aged care in Victoria.³²⁵

(ii) Response by the Department of Human Services

In the *Response by the Minister for Finance to the Auditor-General's Reports issued during 2006-07*, DHS stated that providers are required to meet the accountability requirements of the Commonwealth in relation to these grants. It also indicated that it requires each agency to submit details of how the funds will be allocated and that, in November 2007, providers would be requested to supply the Department with a copy of their acquittal to the Commonwealth.

(iii) Subsequent developments

In February 2008, the Committee sought an update from DHS in relation to whether the acquittals for the Commonwealth grants had been received. DHS advised that the process for seeking acquittals for these monies, as indicated to the Auditor-General during the audit, involved two stages. Firstly the collation and summary of information received from providers seeking approval from DHS for use of the funds and secondly, requesting an acquittal from the providers that received the grants. DHS advised that the first stage had been completed and that the second stage would be completed during March 2008.³²⁶

Further advice received from DHS in September 2008, indicates that the Department anticipates that some form of declaration regarding these funds will have been received from all providers by 31 October 2008.³²⁷

In February 2008, the Committee had also requested DHS provide further details in relation to its oversight of the expenditure and operations of aged care providers. DHS stated that, as the Commonwealth Government is the primary funding source for residential aged care services and has a range of accountability and acquittal requirements in place together with certification and accreditation standards:³²⁸

The Department does not intend to put in place any additional accountability or monitoring requirements in relation to funding provided to health services by the Commonwealth Government.

With respect to funding provided to health services by the State Government, DHS advised that the funding and service agreements in place between the Department and providers specify the basis on which funding is provided and the obligations of the health service. DHS funded capital works, health service providers are required to submit confirmation that work has been completed prior to payment and, for major capital works, there are processes in place between the Department and the service provider to manage the progress of the project in terms of timing, cost and quality.³²⁹

³²⁵ *ibid.*

³²⁶ Ms F Thorn, Secretary, Department of Human Services, letter to the Committee, received, 11 March 2008, p.14

³²⁷ Ms F Thorn, Secretary, Department of Human Services, letter to the Committee, received, 12 September 2008, p.11

³²⁸ Ms F Thorn, Secretary, Department of Human Services, letter to the Committee, received, 11 March 2008, p.14

³²⁹ *ibid.*

(iv) Review

The Committee acknowledges that it is important in an area such as aged care services, which is a Commonwealth Government program, that the State Government is not duplicating the role of the Commonwealth, particularly in relation to bureaucratic processes and mechanisms for monitoring the operations of service providers and the application of grant monies.

The Committee notes a report released in May 2008 by the Australian National Audit Office (ANAO) entitled *Building Certification of Residential Aged Care Homes* which makes reference to the one-off payment by the Commonwealth to Approved Providers. The report states that:³³⁰

The one-off payment was made to Approved Providers in the form of a subsidy, and as such, there is no legislative basis for the Commonwealth to ask for an acquittal of the money spent, nor does it allow the Commonwealth to recover unexpended funds not applied to specific initiatives.

The ANAO report notes that, in 2006, DoHA introduced a process whereby Approved Providers could broadly indicate as part of their annual fire safety declaration whether they had expended, partially expended or were yet to expend the one-off payment.³³¹

(v) Conclusion

The Committee has not reviewed the Service Agreements in place in place between DHS and health service providers to assess their adequacy in overseeing the use of funds provided to public sector aged care facilities however, the Monitoring Framework and Service Agreement Information Kit provide adequate tools for the Department to monitor financial and service performance and also to provide acquittals on how funds are applied in the sector.

3.3.3 Monitoring asset management and maintenance by agencies

In 1995, the DTF produced the Asset Management Series which outlines specific requirements applicable to public sector agencies with asset management responsibilities. The Victorian Government's policy, *Sustaining our Assets*, issued in 2000, also details a number of principles aimed at promoting the effective management of public assets.

One of the critical principles specified in the *Sustaining our Assets* policy is the need to establish clear ownership, control, accountability and reporting arrangements to ensure that assets are managed effectively. While the entity controlling the asset has responsibility for its management and maintenance in order to maximise its estimated useful life, the owner has a vested interest in ensuring that the controlling entity is aware of, and effectively discharges, their responsibilities.³³²

³³⁰ ANAO, Audit Report No. 35 2007-08, *Building Certification of Residential Aged Care Homes*, August 2008, p.56

³³¹ *ibid.*, pp.56-57

³³² Victorian Auditor-General's Office, *Condition of public sector aged care facilities*, August 2006, p.46

(a) Auditor-General's findings and recommendations

The Auditor-General noted that the funding and service agreements between DHS and public sector residential aged care service providers clearly state that responsibility for asset management resides with the provider. The report stated however, that the Agreements did not specify:³³³

- the requirement for providers to develop asset management strategies;
- minimum performance standards expected from providers in managing and maintaining the assets; and
- monitoring arrangements and associated accountability mechanisms for demonstrating compliance with asset management requirements and to demonstrate that the assets are being managed effectively.

DHS advised the Auditor-General during the audit that existing governance arrangements render service providers largely autonomous entities, accountable to their own boards and to the Minister and, as such, the Department does not monitor these specific activities.³³⁴

The Auditor-General's report expressed concerns about the lack of accountability over asset management given the amount of capital investment in public sector facilities made by the State Government and the important role effective asset management plays in maximising the useful life of assets and minimising future maintenance expenditure. The report suggested changes to the existing accountability framework for public sector residential aged care services to establish clearer links between provider performance, in areas such as asset management and maintenance and capital investment planning, and the Government's priorities and objectives in the area.³³⁵

(b) Response by the Department of Human Services

The response provided by DHS in the Auditor-General's report indicated that DHS was working with the DTF on the roll-out of the Asset Management Framework as one of three "early adopter departments". It stated:³³⁶

This will strengthen asset management and improve accountability and monitoring. This initiative will also enhance DHS' and agencies' ability to manage any risks associated with ageing infrastructure.

(c) Subsequent developments

In February 2008, the Committee requested follow-up comments from the Auditor-General and DHS on the issues highlighted in the report. The Auditor-General reiterated his comments that DHS, as owner of the aged care facilities and in its stewardship role for the sector, should ensure that the condition of those facilities, and the risks associated with the condition of those facilities, are managed effectively. He stated also that DHS should actively monitor asset management and maintenance activities undertaken by service providers as part of the conditions of State funding.³³⁷

³³³ *ibid.*

³³⁴ *ibid.*

³³⁵ *ibid.*, pp.47-48

³³⁶ *ibid.*, p.16

³³⁷ Mr D Pearson, Auditor-General, letter to the Committee, received, 11 March 2008, p.15

In its response to the Committee in March 2008, DHS advised that it manages a significant asset base, valued in excess of \$16 billion, with facilities ranging from large tertiary hospitals to community based services and ambulance stations, many operating 24 hours a day, 365 days per year and varying in age.³³⁸ In relation to specific comments made in the Auditor-General's report regarding the need for increased accountability over asset management, the Department advised that it is:³³⁹

...progressing work on an initiative that will put in place annual reporting by agencies on key asset-related indicators. This initiative will strengthen asset management and improve accountability and monitoring.

In addition DHS advised that, under the governance arrangements in place for health service providers, individual providers are responsible for ensuring that their facilities are appropriately maintained in accordance with legislative and other asset management requirements such as the Asset Management Framework. Their responsibilities include maintaining appropriate records relevant to their assets and services.³⁴⁰

In respect to the responsibilities of DHS in regard to asset management, the Department advised that it:³⁴¹

- performs a strategic role in respect to the planning of assets required for service delivery;
- undertakes asset condition audits to assess risks and asset investment priorities and assist providers with their asset management obligations;
- requires providers to carry out fire safety audits and to submit annual compliance declarations in accordance with the Fire Risk Management Strategy guidelines; and
- has an appropriate level of oversight of providers' performance in accordance with the FRMS and other asset related risks based on the Department's overall risk management approach.

In December 2007, the Committee requested information from DHS regarding the 'roll-out' of the Asset Management Framework referred to in their response in the Auditor-General's report. This request was made as part of the Committee's enquiries for its report on the financial and performance outcomes for 2006-07.

DHS advised that the Asset Management Framework is aimed at improving linkages between asset investment decisions and the achievement of outputs and outcomes.³⁴² As one of the "early adopter" departments, it has developed two strategies:³⁴³

- the Asset Strategy, which sets out the high-level direction DHS intends to follow to drive asset management consistent with output management; and
- the Service Strategy which is a high-level statement on how DHS intends to achieve Government outcomes and priorities as specified in key policy documents.

³³⁸ Ms F Thorn, Secretary, Department of Human Services, letter to the Committee, received, 11 March 2008, p.5

³³⁹ *ibid.*, p.14

³⁴⁰ *ibid.*, p.25

³⁴¹ *ibid.*, pp.25-26

³⁴² Department of Human Services, letter to the Committee, received 22 February 2008, response to the Committee's 2006-07 Financial and Performance Outcomes Part Two Questionnaire, pp.43-44

³⁴³ Ms F Thorn, Secretary, Department of Human Services, letter to the Committee, received, 12 September 2008, p.13

DHS also stated that in late 2007, it commenced development of the Department's Asset Management Plan and that a specialist consultant would be engaged to further develop this project in 2008. DHS advised that the project is expected to include "developing asset management plan templates/guidance material for agencies, to assist them in the development of asset management plans for their facilities."³⁴⁴

(d) Review

The Government's *Public Sector Residential Aged Care Policy*, has as one of its key policy directions to "Develop the sector through initiatives that drive quality of care and good management and financial outcomes."

In regard to this the Policy states:³⁴⁵

This large area of State service provision requires a cohesive sector approach. Significant emphasis is being placed on developing sector-wide approaches to quality, physical infrastructure, financial outcomes, management and governance. The State Government will continue to build on these approaches through the allocation of capital and recurrent funding to support and develop the sector.

At the Committee hearing, the Auditor-General stressed that:³⁴⁶

- the audit of the condition of public sector residential aged care facilities was an audit of asset management, not an audit of aged care;
- the owner of public sector residential aged care facilities is the State, and DHS is the representative of the State; and
- DHS has a responsibility to ensure that the State's investment in those assets is effectively monitored and well managed.

In response to questions from the Committee as to whether DHS needed to implement a special parallel system of responsibility, the Senior Director from the Auditor-General's Office stated that, recognising that the State Government provides substantial funding to facilities for capital works, minor works and for ongoing maintenance, it is suggested that there need to be better arrangements put in place over the accountability for that funding. If the State is providing funding then it is entitled to some assurance that the money is being used for the purpose it was given and that the funds are being spent appropriately.³⁴⁷

The Committee is of the view that the responsibility for diligent and accountable asset management should and does rest with the health service provider as this is the entity controlling the asset. However, the Committee supports the view of the Auditor-General that there is an overview role for DHS in monitoring data on asset performance management. In particular, the Government's *Sustaining Our Assets* policy states that the policy builds on existing asset management practice with increased emphasis in four main areas including 'accountability for asset investment' requiring 'greater transparency and quality in reporting arrangements'.³⁴⁸

³⁴⁴ Department of Human Services, letter to the Committee, received 22 February 2008, response to the Committee's 2006-07 Financial and Performance Outcomes Part Two Questionnaire, p.44

³⁴⁵ Victorian Government, *Public Sector Residential Aged Care Policy: The Victorian Government's role in residential aged care services*, p.17

³⁴⁶ Mr D. Pearson, Auditor-General, transcript of evidence, 24 April 2008, p.14

³⁴⁷ Ms E Holland, Senior Director, Victorian Auditor-General's Office, transcript of evidence, 24 April 2008, p.16

³⁴⁸ Department of Treasury and Finance, *Sustaining Our Assets: Government Asset Management Policy Statement*, December 2000, p.1

The Policy goes on to state that monitoring and performance management is an integral part of successful asset management.

*Regular measurement and evaluation of performance assists the Government to determine if it is achieving its desired outcomes in the most effective manner ... Monitoring and evaluation of performance is dependent on reporting arrangements which deliver timely, accurate and comprehensive information.*³⁴⁹

The *Asset Management Series* produced by the DTF includes an asset management checklist which poses a number of questions aimed at ascertaining whether an agency is applying the asset management principles. One of these refers to establishing clear accountability and responsibility and asks whether asset management responsibilities are reflected in performance agreements and service agreements.³⁵⁰ Further the *Asset Management Series* also states that public sector entities are:

*responsible for developing five-year asset management strategies for the assets under their control. These strategies are to cover maintenance, refurbishment and energy management and include all operating costs. They shall also detail the systems and processes to be established to monitor asset performance.*³⁵¹

A review of the terms and conditions of the Service Agreements as described in the *Service Agreement Information Kit for Funded Organisations 2006-09* contain no reference to the Victorian Government Policy on Asset Management. The Service Agreements contain requirements in the terms and conditions relating to asset recording and reporting but these relate to non-current assets valued at \$3,000 or more where those assets are “*department funded assets valued at \$3,000 or more, where those assets are purchased from minor capital funds*”. The Agreement requires that these assets must be recorded in an asset register. Non-current physical assets referred to in the Kit include office equipment, motor vehicles, furniture, computers, communications systems and equipment. There is no mention made of the asset management principles required in respect to the management of DHS infrastructure.³⁵²

With consideration to the likely significant replacement value of public sector residential aged care facilities and the investment by the State Government of in excess of \$420 million since 2000 for the replacement and/or upgrade of public sector residential aged care facilities, it is considered essential that service agreements encourage and expect responsible and accountable asset performance management by health service providers and that DHS has mechanisms in place to ensure that this occurs.

DHS has advised that it is currently involved in the implementation of the Asset Management Framework which will require annual reporting by providers on key asset related indicators. In response to a request from the Committee for further information about these indicators, DHS advised in September 2008, that draft indicators had been developed in conjunction with the Institute of Hospital Engineers. The extraction of preliminary asset maintenance key performance indicator (KPI) information identified the need to adjust the account classifications to separate building maintenance and equipment maintenance expenditure. DHS advised that energy and water consumption KPI data is now being collected by the Department and energy benchmarking information has been made available to providers.³⁵³

³⁴⁹ *ibid.*, p.11

³⁵⁰ Department of Treasury and Finance, 1995, *Asset Management Series*, Melbourne, *Part 1: Asset Management Principles, Asset Management Checklist*,

³⁵¹ *ibid.*, *Part 2: Asset Management Policies and Practices, Section 5.2, Asset Maintenance*

³⁵² <http://www.dhs.vic.gov.au/facs/bdb/fmu/service-agreement>, >accessed 12 September 2008

³⁵³ Ms F Thorn, Secretary, Department of Human Services, letter to the Committee, received, 12 September 2008, p.14

(e) Conclusion

The Committee welcomes the implementation of the Asset Management Framework as a step towards improved asset performance management at a service provider level.

The Committee considers that the comments made by the Auditor-General in his report in respect to deficiencies in the asset management requirements, contained in funding and service agreements between the Department and service providers, remain relevant.

The Committee recommends that:

Recommendation 3:

The Department of Human Service review the Service Agreement Information Kit to ensure that it includes reference to current public sector asset management policies and principles aimed at maximising the service delivery potential of a facility and managing the related risks and costs over the life of the facility. In particular Agreements need to specify:

- (a) the requirement for providers to develop asset management strategies;**
- (b) the minimum performance standards expected from providers in managing and maintaining the facilities in an effective manner; and**
- (c) the monitoring arrangements and accountability mechanisms in place for demonstrating compliance with public sector asset management principles.**

3.3.4 Funding the maintenance of facilities

As stated in Chapter 2 of this report, while the Commonwealth Government is the primary funding source for residential aged care, the State Government provides funding on what it calls a “top-up basis” to cover additional costs incurred due to state policy related arrangements.³⁵⁴ In addition to this recurrent and capital works funding, DHS contributes funding to assist agencies to invest in preventative and responsive maintenance of public sector aged care facilities. The two main ways in which these funds are provided is as part of a provider’s recurrent funding (for routine maintenance) and through a bid based process (for purposes which extend beyond routine maintenance). In addition, there is a small contingency fund, managed by DHS, for emergency works which may arise.³⁵⁵

³⁵⁴ Ms F Thorn, Secretary, Department of Human Services, letter to the Committee, received, 11 March 2008, p.5

³⁵⁵ Victorian Auditor-General’s Office, *Condition of public sector aged care facilities*, August 2006, p.48

(a) Auditor-General's findings and recommendations

With respect to bid-based funding, the Auditor-General was unable to identify which facilities had received bid-based funding totalling approximately \$320,000 in 2005-06, as generally only the service provider managing the facility was identified and in many cases a provider manages multiple facilities. In addition, DHS does not require providers to acquit for the use of the funds to enable monitoring of their use.³⁵⁶

In 1996, DHS introduced an ongoing one per cent of a provider's annual recurrent funding allocation to be used for maintaining facilities. The audit report noted that this percentage allocation had not been adjusted over time to account for changes in program or provider budgets or for movements in the consumer price index. During an earlier audit in 2000, DHS had advised the Auditor-General that the percentage allocation for maintenance of hospital buildings was three per cent of the book value of the buildings. During the 2006 audit, DHS advised that the current benchmark for maintenance budgeting was one to one and a half per cent of the book value of the buildings. The Auditor-General found no evidence that this rate had been established for the calculation of maintenance funding or that the rate had been based on any well founded assessment.³⁵⁷

While the report noted that DHS was unable to provide a figure for the actual amount of recurrent funding provided to public sector residential aged care facilities for maintenance, based on the information available, the Auditor-General estimated it to be "*in the vicinity of \$11,400 for each facility ... as a 'best-case' scenario.*"³⁵⁸

The Auditor-General noted, from visits to a small selection of public sector residential aged care facilities, that the average annual expenditure on maintenance was around \$41,500 which is \$30,100 more than the maximum amount likely to be provided from the Department based on the figures provided. The report presented an analysis of the funding provided for maintenance by DHS and spent by providers to suggest an annual maintenance funding shortfall of around \$22 million. The report noted that DHS had advised that based on the book value of public sector residential aged care facilities of between \$500 million and \$530 million, the maintenance funding shortfall was in the vicinity of \$7 million to \$8 million per annum. However, the Auditor-General found no evidence to support his calculation.³⁵⁹

The report recommended that DHS review the level of State funding provided to public sector residential aged care service providers for the maintenance of facilities.³⁶⁰

(b) Response by the Department of Human Services

In the *Response by the Minister for Finance to the Auditor-General's Reports issued during 2006-07*, DHS responded that the Commonwealth funding provided to residential aged care services incorporates a component for maintenance and that the Department will continue to provide access for funding for minor works, equipment and infrastructure in addition to major capital works projects. It advised in the response that '*the process for allocating annual provisions will be reviewed in the second half of the 2007-08 financial year.*'³⁶¹

³⁵⁶ *ibid.*, p.49

³⁵⁷ *ibid.*, p.50

³⁵⁸ *ibid.*

³⁵⁹ *ibid.*, pp.51-52

³⁶⁰ *ibid.*, p.57

³⁶¹ Department of Treasury and Finance, *Response by the Minister for Finance to the Auditor-General's Reports 2006-07*, p.37

(c) Subsequent developments

In February 2008, the Committee requested the Auditor-General comment on the actions taken by DHS to address the issue concerning the level of State funding provided for the maintenance of public sector residential aged care facilities raised in the report. The Auditor-General stated that DHS's response did not address the issue identified in the report. The Auditor-General reiterated that his report:³⁶²

... questioned the rationale underpinning the Department's approach to recurrent maintenance funding for public sector residential aged care facilities, which had not been adjusted or reviewed since it was introduced in 1996. Given the estimates of the shortfall in maintenance funding, audit still considers that DHS should review the level of state funding provided to agencies for maintenance.

A request from the Committee for an update on the views of DHS in respect to the findings and recommendations contained in the Auditor-General's report was made in February 2008. DHS advised that there are no plans to increase the level of funding provided through either the recurrent maintenance contribution or bid-based funding provided by the State Government at this time.³⁶³

DHS stressed to the Committee that *'this funding is in addition to the funding that agencies receive from the Commonwealth Government to operate residential aged care services, including the maintenance of facilities.'*³⁶⁴ DHS indicated that a desktop review of the process of budget distribution across the Department regions has been completed and the Department is examining the option of separately identifying the maintenance component for aged care to improve transparency and equity across the regions and improve timeliness for prioritising state-wide allocation for urgent and essential works.³⁶⁵

In response to a request from the Committee for further details from DHS on the calculation used for determining the recurrent allocation, the Department advised in September 2008, that it continues to provide a recurrent maintenance contribution based on one per cent of the 1996 aged care budget together with access to bid-based funding through the Annual Provision program. Further DHS stated that it advised the Auditor-General during the audit that an appropriate benchmark for maintenance investment was considered to be one to one-and-a-half per cent of the asset replacement value rather than three per cent of the book value of the assets as this better reflects the increasing cost of maintenance as assets age.³⁶⁶

DHS stated that it did not agree with the Auditor-General's calculation of the maintenance shortfall as it overstated the requirement and understated the potential revenue from Commonwealth, State and resident sources.³⁶⁷

(d) Review

The Auditor-General's report noted that studies commissioned by the State government and DHS in recent years have shown that Victorian public sector residential aged care facilities operate in an environment where recurrent funding and resident fees are substantially used to fund recurrent operations.³⁶⁸

³⁶² Mr D Pearson, Auditor-General, letter to the Committee, received, 11 March 2008, p.14

³⁶³ Ms F Thorn, Secretary, Department of Human Services, letter to the Committee, received, 11 March 2008, p.13

³⁶⁴ Ms F Thorn, Secretary, Department of Human Services, letter to the Committee, received, 12 September 2008, p.9

³⁶⁵ *ibid.*

³⁶⁶ *ibid.*

³⁶⁷ *ibid.*, p.10

³⁶⁸ Victorian Auditor-General's Office, *Condition of public sector aged care facilities*, August 2006, p.48

The Committee received a submission on 17 April 2008 from Aged and Community Care Victoria (ACCV), the single peak industry association for providers of aged and community care in Victoria. The submission highlighted the current pressures on providers of aged and community care including the adequacy of Commonwealth Government funding for capital works. The ACCV states:³⁶⁹

The changing nature of Commonwealth funding is one of the major effectors on the capacity of residential aged care providers to fund key capital works programs. The increases in Commonwealth funding over the past decade have seriously lagged behind the rising costs of building and maintenance and this has a growing impact over time.

DHS advised that Government policy recognises the importance of residential aged care services in a comprehensive system of health and aged care services for older Victorians and, as such, one of the Department's roles is to advise:³⁷⁰

...the State Government on the impact of related services on the effectiveness of the overall system, including the adequacy of Commonwealth resource allocation and application of benchmarks, and to resource the Government in advocating for improved services and systemic arrangements.

The Committee considers a need for DHS to exercise this role in seeking additional funds from the Commonwealth for Victorian residential aged care facilities to ensure that recurrent funding for maintenance is set at a sufficient level to enable facilities including for public sector facilities to operate at optimal service levels and assist in maintaining the health and wellbeing of residents.

The Committee is concerned that any significant maintenance funding shortfalls could potentially result in a range of undesirable ramifications such as higher maintenance costs in the longer term, detrimental impacts on the quality of life for the residents, higher operating costs in terms of electricity, gas and water and occupational health and safety risks.

These questions were raised with DHS who advised that the process of budget distribution has been reviewed and the Department is examining the option of separately identifying the maintenance component for aged care. It again emphasised that State funding for maintenance is provided in addition to Commonwealth funding and the calculation of the maintenance funding shortfall by the Auditor-General was considered by DHS to be overstated. DHS advised that:³⁷¹

Investment in the maintenance of facilities is critical to the ongoing performance of the asset and ultimately to the wellbeing of residents. The condition and performance of facilities is a key area monitored by health services. All health services have an annual maintenance program in place (the form this takes depends on the size and composition of the health service).

(e) Conclusion

The Committee was unable to draw a conclusion as to whether there was a maintenance shortfall, as suggested by the Auditor-General. Adequate funding for maintenance is necessary to protect the State's \$420 million investment in public sector residential aged care facilities and to ensure these facilities operate efficiently and effectively.

³⁶⁹ Aged and Community Care Victoria, submission no.1

³⁷⁰ Ms F Thorn, Secretary, Department of Human Services, letter to the Committee, received, 11 March 2008, p.24

³⁷¹ Ms F Thorn, Secretary, Department of Human Services, letter to the Committee, received, 12 September 2008, p.10

Based on the findings of the Auditor-General and comments received from DHS, the Committee considers that the Department would be well placed to undertake a more relevant calculation of the maintenance budget requirements of public sector aged care facilities based on the current replacement value of facilities. Such calculations would provide useful management information and is necessary to support any future submissions to the Commonwealth Government for a more realistic level of maintenance funding.

The Committee recommends that:

Recommendation 4: **The Department of Human Services review the methodology for calculating maintenance budget and consider using current replacement value for determining funding.**

Recommendation 5: **The Department of Human Services examine if a current maintenance shortfall exists and use this information to support a submission to the Commonwealth for increased funding.**

3.3.5 *Encouraging the use of locally-raised funds for capital works and maintenance*

In addition to funds provided by the Commonwealth and State Governments, public sector residential aged care providers receive funding from accommodation fees and local community fundraising efforts.

Accommodation fees can take the form of either a bond or a charge. An accommodation bond is a lump sum paid by a person living in a residential aged care hostel (low care). The size of the bond is negotiated between the provider and resident upon entering the facility. Providers can draw-down and keep a monthly retention amount from a resident's bond monies for the first five years that the person remains in residential aged care. Accommodation charges are a daily charge on people living in a nursing home (high care). The Commonwealth pays a concessional resident supplement to approved providers for residents who are unable to pay accommodation bonds or charges.

Accommodation charges, interest earned on bonds and retention amounts provide a source of funding which can be used by providers to contribute to the cost of capital works and maintenance.³⁷²

³⁷² Victorian Auditor-General's Office, *Condition of public sector aged care facilities*, August 2006, p.53

(a) Auditor-General's findings and recommendations

The Auditor-General's report noted that studies conducted by DHS in 2002 and 2003 indicated that public sector residential aged care providers had limited ability to contribute funds earned through accommodation charges towards capital works as these were required to meet day-to-day operating costs. Other studies commissioned by DHS in 2004 showed that a large proportion of providers were operating at a loss. Based on a review of these studies, the Auditor-General observed that DHS has a portfolio orientation whereby responsibilities are largely devolved to individual service providers. He concluded that this is not optimal to harnessing the collective potential of the sector to contribute to its associated costs.³⁷³

In particular, the Auditor-General found that DHS did not:³⁷⁴

- have a policy or strategy in place concerning the use of bonds collected;
- systematically monitor how bonds were used by providers and could not provide figures on the extent to which providers used accommodation fees for capital purposes;
- systematically monitor whether revenue derived from bonds are being used to meet the cost of capital works;
- encourage providers to maximise accommodation bonds; and
- encourage providers to use bonds to facilitate financing of capital projects or to maintain the condition of facilities.

The report concluded that “*an opportunity exists for more effective and efficient use of accommodation bonds held by agencies across the sector to facilitate future capital works or to sustain facilities through maintenance.*”³⁷⁵

In regard to local community fundraising, the report commented that there was a perception that such fundraising can sometimes disadvantage these communities as funding tends to flow to those areas where local fundraising has not occurred. The Auditor-General recommended that DHS develop a policy that recognises local fundraising contributions and protects the Department from any community perceptions of disadvantage in funding allocations.³⁷⁶

(b) Response by the Department of Human Services

In the *Response by the Minister for Finance to the Auditor-General's Reports issued during 2006-07*, DHS stated that it considered current arrangements regarding local contributions and funding of providers as appropriate.³⁷⁷

³⁷³ *ibid.*, pp.54-55

³⁷⁴ *ibid.*, p.55

³⁷⁵ *ibid.*

³⁷⁶ *ibid.*

³⁷⁷ Department of Treasury and Finance, *Response by the Minister for Finance to the Auditor-General's Reports 2006-07*, p.38

(c) Subsequent developments

In response to a request from the Committee for follow-up comment on this recommendation, the Auditor-General stated that DHS's response had not addressed the issue raised in the audit report. The Auditor-General reiterated that there was a perception that at times, funding decisions disadvantaged those communities where local fund raising efforts had been conducted. The Auditor-General stated that:³⁷⁸

This perception, coupled with the fact that DHS did not systematically monitor whether agencies in control of facilities were effectively discharging their responsibilities for managing and maintaining the assets, was regarded as creating the risk of 'perverse' incentives where capital funds could be directed to agencies with the poorest management practices.

The Committee requested details of current arrangements in DHS for recognising local contributions for facilities management and maintenance. DHS advised that where a health service provider wishes to utilise its own funds for capital works (including any from fundraising), the provider is required, under certain circumstances, to seek the approval of the Secretary of the Department, as stipulated in the *General Conditions of Funding*. In the case of major capital works, the capacity of the service provider to contribute funds is considered during the development of the business case for the project. DHS advised that it "*does not favour or penalise health services based on their capacity to contribute funding.*"³⁷⁹

At the Committee audit hearing on 27 March 2008, the Secretary of DHS restated that the Department does not penalise people for their local fund raising contributions nor is it a requirement of a proposal for a project being successful.³⁸⁰

In relation to the management and use of accommodation bonds, DHS advised the Committee in March 2008 that it has recently finalised a "Better Practice Tool", as part of the Department's *Business Performance Initiative* that aims to ensure that providers are fully aware of Commonwealth rules and comply with the requirements for accommodation bonds.³⁸¹

While this will help agencies understand when bonds can be charged and how much they can seek, it does not direct them to 'maximise' bonds. That is considered to be a decision to be made by individual services, based on local circumstances. It is also worth noting that the Department has no plans (or mandate) to pool bonds.

(d) Conclusion

The Committee does not support the Auditor-General's finding in regards to the perception that local fundraising may act as a disadvantage to obtaining additional funds from the State for capital works proposals. The Committee notes that the Auditor-General has not based this finding on evidence, and as such, the Committee accepts DHS's representation that communities are not penalised for fundraising activities.

³⁷⁸ Mr D Pearson, Auditor-General, letter to the Committee, received, 11 March 2008, p.15

³⁷⁹ Ms F Thorn, Secretary, Department of Human Services, letter to the Committee, received, 11 March 2008, p.15

³⁸⁰ Ms F Thorn, Secretary, Department of Human Services, PAEC audit hearing, transcript of evidence, 27 March 2008, p.16

³⁸¹ Ms F Thorn, Secretary, Department of Human Services, letter to the Committee, received, 11 March 2008, p.14

The Committee considers that comments made by the Auditor-General in respect to the use of accommodation bonds warrant further investigation by DHS. Due to the devolved responsibility for managing accommodation bonds resting with service providers, the Committee considers that guidance should be made available to service providers regarding how best to utilise accommodation bonds for capital projects including maintenance of facilities. The Committee accepts though that individual Approved Providers have the prime responsibility for delivering “best practice” with the use of accommodation bonds for capital works. Private and community-based providers have to manage bonds to this end, so should public sector instrumentalities.

The Committee recommends that:

Recommendation 6:

The Department of Human Services consider providing guidance so service providers can better manage their accommodation bonds to ensure they are maximising the benefit from these funds for capital works.

CHAPTER 4: CONDITION OF VICTORIAN PUBLIC SECTOR RESIDENTIAL AGED CARE FACILITIES

4.1 Introduction

The second part of the Auditor-General's report focussed on an assessment of the current condition of Victorian public sector residential aged care facilities and how DHS had acted to address the condition of facilities as identified through the fabric survey undertaken in 2001.

This part of the audit involved the physical inspection of a sample of 49 public sector residential aged care facilities across Victoria. The condition of each of the facilities was then compared against the findings contained in the fabric survey.³⁸²

4.2 The condition of Victorian public sector residential aged care facilities

To determine the current condition of Victorian public sector residential aged care facilities, the Auditor-General asked the following questions:³⁸³

- Do Victorian public sector residential aged care facilities meet the Commonwealth Government standards applicable to those facilities?
- What is the current physical condition of public sector residential aged care facilities in Victoria?
- Has the condition of Victorian public sector residential aged care facilities improved since 2001?

The criteria used by the Auditor-General for the assessments (i.e. Commonwealth Government certification standards and a relative condition scale based on assessment guidelines available from the Victorian Building Commission) were provided and agreed to with DHS in September 2005.³⁸⁴

4.2.1 Meeting Commonwealth Government standards

The Commonwealth Government has established a number of certification standards aimed at ensuring the provision of quality accommodation for residents and the continuous improvement in facilities. A residential aged care facility must pass an assessment by an independent qualified building professional against the Commonwealth standards. Under the certification system, a facility is awarded points (out of a possible total of 100) in each of 7 areas detailed in the *1999 Aged Care Certification Assessment Instrument*. To achieve certification, a residential aged care facility must achieve a total overall score of at least 60 points including a minimum of 19 points, out of a possible 25 points, in the area of safety.

³⁸² Victorian Auditor-General's Office, *Condition of public sector aged care facilities*, August 2006, p.61

³⁸³ *ibid.*

³⁸⁴ *ibid.*

(a) Auditor-General's findings and recommendations

The Auditor-General assessed the sample of public sector residential aged care facilities against the Commonwealth's certification standards including the stricter fire safety standards, to be met by 2005, and the 2008 privacy and space standards. The Auditor-General indicated in his report that his Office had used qualified building professionals to independently undertake the assessments and conducted ongoing consultation with staff within DHS throughout the process.³⁸⁵

The Auditor-General reported that only one of the 49 facilities assessed was unlikely to meet the Commonwealth's 2008 privacy and space standard but noted that funding had been provided in the 2006-07 State budget to build a new replacement facility. In respect to the Commonwealth's standards for safety, the audit found 25 of the 49 facilities assessed (i.e. 51 per cent) did not meet those standards mainly due to non-compliance with the mandatory 2005 standards for fire safety.³⁸⁶

The report noted the most common areas of non-compliance as follows:³⁸⁷

- fire separation – integrity of fire doors, fire walls and associated regular maintenance;
- egress – addressing the adequacy of the number and distribution of exits, signage and illumination;
- smoke separation – addressing the adequacy of the provision and maintenance of appropriate smoke doors, smoke seals and reservoirs, including proximity of associated smoke detection systems;
- fire fighting equipment – addressing the adequate location and maintenance of fire hydrants, extinguishers and hose reels; and
- alarm, detection and evacuation systems – addressing the provision of appropriate smoke detectors and heat detectors throughout the buildings.

The report noted that all Victorian public sector residential aged care facilities have been assessed by the Commonwealth against the *1999 Aged Care Certification Instrument* and have been certified. However, the report noted that changes to the Building Code of Australia (BCA) may mean that facilities that have previously met the certification standards might not continue to meet the standards over time.³⁸⁸

The report recommended that DHS work with the DoHA to clarify the standards required under certification for residential aged care facilities.³⁸⁹

(b) Response by the Department of Human Services

DHS stated in the *Response by the Minister for Finance to the Auditor-General's Reports issued during 2006-07* that the "DHS continues to be in contact with the Commonwealth on all matters relating to certification."³⁹⁰

³⁸⁵ *ibid.*, pp.64-65

³⁸⁶ *ibid.*, pp.65-66

³⁸⁷ *ibid.*, pp.66-67

³⁸⁸ *ibid.*, pp.63-64

³⁸⁹ *ibid.*, p.75

³⁹⁰ Department of Treasury and Finance, *Response by the Minister for Finance to the Auditor-General's Reports 2006-07*, p.38

(c) Subsequent developments

The Auditor-General advised the Committee in March 2008, that DHS's response did not clarify whether the recommendation had been addressed. The Auditor-General advised that during the audit it became apparent that DHS was unaware that the certification instrument applied by the Commonwealth is always based on the most recent version of the BCA while the Department indicated that it was under the impression that the certification instrument was based on the BCA96 and not the most current version. The Auditor-General states:³⁹¹

Changes to the BCA from the time a facility is initially assessed for certification and found to meet the standard, mean that it will not necessarily meet the revised standard in the future. This highlights the importance of continuous improvement and ongoing effective asset management, which the certification instrument aims to promote.

The Auditor-General's view continues to be that DHS's lack of awareness of the dynamic nature of the BCA standard put it at risk of maintaining facilities against an obsolete standard.

In March 2008, DHS advised the Committee that discussions were held with the Commonwealth Government's certification consultant regarding clarification of the standard to be adopted for assessing residential aged care facilities. The advice received by DHS was that the Commonwealth has adopted the latest version of the BCA as their benchmark for assessing fire safety performance. DHS advised the Committee that *'the Commonwealth does not mandate that existing facilities meet the current BCA requirements but rather uses this to assess and score the facility.'*³⁹²

DHS further advised that the Certification Tool Kit (recently updated) will provide additional guidance to health service providers in respect of certification requirements. Also, key departmental staff, are kept informed on certification issues through their attendance from time to time at forums conducted by the Commonwealth Government.³⁹³

At the Committee audit hearing in April 2008, the Auditor-General stressed that the Commonwealth's *'certification regime is aimed at maintaining currency of standards and driving continuous improvement in facilities.'*³⁹⁴ And:³⁹⁵

Notwithstanding that the facilities achieved certification, we consider agencies have an obligation to be proactive, both as responsible managers and particularly to recognise the nature of the regulatory regime in which they operate – that is to say, not only should they be doing the best they can with what they have, but they should also be able to withstand reassessment at any point as provided for in the regulatory regime in which they operate.

(d) Conclusion

The Committee recognises and commends the enormous amount of effort undertaken by DHS to ensure that public sector residential aged care facilities meet the 1997, 2005 and 2008 Commonwealth certification requirements.

³⁹¹ Mr D Pearson, Auditor-General, letter to the Committee, received, 11 March 2008, p.16

³⁹² Ms F Thorn, Secretary, Department of Human Services, letter to the Committee, received 11 March 2008, p.15

³⁹³ *ibid.*

³⁹⁴ Mr D Pearson, Auditor-General, transcript of evidence, 24 April 2008, p.14

³⁹⁵ *ibid.*

The Committee acknowledges advice obtained by DHS from the Commonwealth Government certification consultant that the certification standards reflect the latest version of the BCA in respect to the assessment of fire safety only. However, the Committee encourages DHS to embrace a proactive approach, as recommended in the Auditor-General's report, to maintaining facilities against the current BCA requirements. In this way DHS will further demonstrate its commitment to a process which encourages continuous improvement and assists in providing facilities for aged care residents which meet current standards of quality and safety in terms of their physical condition.

4.2.2 Physical condition of buildings

In order to make an assessment of the current condition of public sector residential aged care facilities, the Auditor-General's Office examined the physical condition of the building fabric and associated key services of each of the facilities in the sample. The following areas were assessed through direct inspection, discussions with staff and examination of maintenance procedures and documentation.³⁹⁶

- internal building fabric – walls, floors, ceilings, electrical fittings and plumbing fittings;
- external building fabric – rooves, gutters, external walls and external windows;
- building services – fire sprinklers, hydraulic services, cooling and heating systems;
- site fabric – fencing, paths and roads, car parks and landscaping; and
- site infrastructure – water supply, stormwater and sewer services, gas and electricity services.

In conducting the assessment, the Auditor-General first developed a “relative condition” scale in consultation with an expert building surveyor as the benchmark against which each of the facilities could be assessed. This scale provided for facilities to be assessed as being “at”, “below” or “above the required condition” for the facility to perform at an appropriate level. The emphasis of the assessment was on the physical condition of the facility and not its functionality or operational efficiency.³⁹⁷

(a) Auditor-General's findings and recommendations

The Auditor-General's report stated that the condition of the internal building fabric was better than expected across all the facilities in the sample. In other aspects, such as external building fabric, building services and site elements, the audit found a wider variation in condition across the sample.

The report noted that facilities rated as '*below the required condition*' consistently achieved worse than expected scores across the building and site aspects assessed. The most distinguishing characteristic among these facilities was the generally poor condition of the external building fabric. The results for those facilities rated as '*at the required condition*' varied. The generally poor condition of their building services and site elements was compensated by better than expected results for internal fabric and site infrastructure. As such, the report noted that while the overall condition of these facilities was adequate, they still contained worn or deteriorating items which required attention or maintenance.³⁹⁸

³⁹⁶ Victorian Auditor-General's Office, *Condition of public sector aged care facilities*, August 2006, p.68

³⁹⁷ *ibid.*, p.69

³⁹⁸ *ibid.*, pp.70-71

Based on these findings the Auditor-General recommended that DHS encourage service providers managing public sector residential aged care facilities to develop and implement strategies to ensure that:³⁹⁹

- risks associated with failing, inadequate or obsolete infrastructure are mitigated;
- facilities satisfy the BCA standards; and
- facilities continue to meet the Commonwealth Government's certification requirements.

(b) Response by the Department of Human Services

In the report, DHS responded that all facilities were certified and have met the requirements for higher standards in relation to fire safety, as tested against the Commonwealth's 1999 certification instrument, and were on track to meeting the 2008 privacy and space requirements. DHS indicated that it would continue to work with the Commonwealth on matters relating to certification standards and, more generally, residential aged care services.⁴⁰⁰

In its response as included in the *Response by the Minister for Finance to the Auditor-General's Reports issued during 2006-07*, DHS again advised that it was working with DTF on the roll-out of the Asset Management Framework which will require annual reporting by service providers on key asset related indicators aimed at strengthening asset management and improving accountability and monitoring.

DHS also stated that facilities are required to meet the BCA requirements as at the time of construction together with some specific items retrospectively introduced through Building Regulations (e.g. sprinklers and other essential safety provisions) and reiterated that all public sector residential aged care facilities meet these requirements.⁴⁰¹

(c) Subsequent developments

In response to a request from the Committee for comments on DHS's response to this recommendation, the Auditor-General stated that he welcomed the Department's initiatives in implementing the Asset Management Framework to strengthen asset management by service providers. However, the Auditor-General restated his concerns that DHS continues to maintain the incorrect view that residential aged care facilities only need comply with the BCA current at the time of construction (together with retrospective safety requirements) even though the Commonwealth applies the latest version of the BCA in their assessments and, in becoming certified, providers also commit to ensuring that the facilities will continue to meet the certification standards over time.⁴⁰²

DHS's response to the Committee in March 2008 states that there are a range of processes in place which are aimed at ensuring that certification standards are maintained such as the Department's Fire Risk Management Guidelines, other risk management processes in place at a local service provider level, periodic fabric surveys and compliance with changes to the BCA which are introduced retrospectively.⁴⁰³

³⁹⁹ *ibid.*, p.75

⁴⁰⁰ *ibid.*, p.17

⁴⁰¹ Department of Treasury and Finance, *Response by the Minister for Finance to the Auditor-General's Reports issued during 2006-07*, p.39

⁴⁰² Mr D Pearson, Auditor-General, letter to the Committee, received, 11 March 2008, p.16

⁴⁰³ Ms F Thorn, Secretary, Department of Human Services, letter to the Committee, received 11 March 2008, p.16

At the Committee hearing on 27 March 2008, DHS reiterated the processes in place to assist in maintaining public sector aged care facilities at certification standards. The first relates to the original measurement against the standards, including the 2005 fire safety standards. The second is DHS's FRMS which requires a regular physical audit plus annual compliance assurance. And finally, there is the Department's fabric survey. DHS is of the view that the FRMS provides a very high level of safety across all of the State's public sector 24-hour bed-based health facilities.⁴⁰⁴

(d) Review

The Auditor-General's concerns centre on the risk of revocation of certification of Victorian public sector residential aged care facilities, in the event of reassessment by the Commonwealth against current BCA standards and the need for providers to embrace the concept of continuous improvement. DHS claims on the other hand that processes currently in place assist in maintaining public sector residential aged care facilities at certification standards.

The submission to the Committee from the ACCV advised of its support for appropriate certification standards but noted that certification requirements have had a direct financial impact on organisations due to the upgrades in infrastructure required and compliance with continuing changes to the Building Code which will be reflected in future requirements of the Certification instrument.⁴⁰⁵

The Committee notes that the ANAO tabled a report on '*Building Certification of Residential Aged Care Homes*' in May 2008 which examined the administration of building certification of residential aged care homes by DoHA.

The report states that the *1997 Certification Assessment Instrument* was developed by the DoHA in consultation with industry and used for the initial certification inspections. By the end of 1997, all providers who chose to seek certification were certified. In accordance with its *10 Year Forward Plan* and the objective of continuous improvement, the 1997 Instrument was revised in a 1999 Instrument. The 1999 Instrument was last revised in 2002.⁴⁰⁶

Certification is based on the BCA although it does not replicate the code. The BCA is produced and maintained by the Australian Building Codes Board on behalf of the Australian Government and State and Territory Governments. The BCA has been given the status of building regulations by all States and Territories.⁴⁰⁷ In 2006 the BCA was amended to include aged care facilities into the new *9c building classification which specifically relate to building standards in aged care facilities*. The report notes that the DoHA conducted seminars on the BCA changes and the impact on DoHA's certification process and Instrument.⁴⁰⁸

The report found that stakeholders had identified a number of ongoing issues which would benefit from greater engagement between DoHA, approved providers and the wider industry to improve the effectiveness of certification. One of these related to "*addressing the varying interpretations of the Certification Assessment Instrument and potential conflict between the Instrument and the Building Code of Australia*".⁴⁰⁹

⁴⁰⁴ Dr C Brook, Executive Director, Rural and Regional Health and Aged Care Services, Department of Human Services, transcript of evidence, 27 March 2008, p.10

⁴⁰⁵ Aged and Community Care Victoria, submission no.1

⁴⁰⁶ ANAO, Audit Report No. 35 2007-08, *Building Certification of Residential Aged Care Homes*, August 2008, pp.19-20

⁴⁰⁷ *ibid.*, p33

⁴⁰⁸ *ibid.*, pp.21-22

⁴⁰⁹ *ibid.*, p.15

In addition, while stakeholders supported the program and considered it had been successful in achieving improvements to the building stock of aged care facilities, many considered that certification may no longer be relevant due to:⁴¹⁰

- *progressive yearly revision and update of the Building Code of Australia;*
- *improved State, Territory and local government regulations on fire safety;*
and
- *the maturity of the industry.*

The report notes that the *10 Year Forward Plan* for certification concludes at the end of 2008 and that DoHA is expected to review the future of the program and consider the design of any future initiative to maintain and improve the physical standards of residential aged care.⁴¹¹

Subject to the future design of the certification program beyond 2008, the ANAO made two recommendations which focussed on the need for DoHA to refine its performance information framework for the building certification program and improve communication with key industry stakeholders in respect to emerging certification issues and targeting highest priority risks posed by non-compliance.⁴¹²

(e) Conclusion

A review of the comments received by the Committee from DHS and the Auditor-General, together with the findings contained in the ANAO report, suggest that some confusion exists between the Commonwealth certification requirements and the building standards as set out in the BCA. Given that the Commonwealth is about to commence a review of its certification program, the Committee expects that DHS will review its processes and procedures once the Commonwealth determines the direction of any future program for monitoring condition standards in aged care facilities. In the interim, it is considered prudent for the Department to ensure that service providers keep up to date with the requirements of the BCA.

The Committee recommends that:

Recommendation 7:

The Department of Human Services ensure that in regards to the current Building Code of Australia requirements as they relate to public aged care facilities:

- facilities are maintained in accordance with this standard to ensure quality and safety; and**
- health service providers are encouraged to maintain their knowledge of the requirements and develop strategies to meet these standards.**

⁴¹⁰ *ibid.*, p.22

⁴¹¹ *ibid.*, p.20 and p.24

⁴¹² *ibid.*, p.24

Recommendation 8: **In the light of any future changes to the certification program by the Commonwealth Department of Health and Ageing, the Department of Human Services undertake a review of its processes and procedures to ensure that service providers continue to adequately maintain and improve the physical standards of public sector residential aged care facilities.**

4.2.3 *Improvements since 2001*

To determine whether the overall condition of public sector residential aged care facilities had improved since 2001, the Auditor-General's Office converted the physical condition scores from their assessment into the ratings used by DHS in its' 2001 fabric survey so that the facilities could then be classified into one of the 4 categories used in the survey, namely:⁴¹³

- Category 1 – Facilities which will not achieve 2008 certification (for privacy and space);
- Category 2 – “At risk” – facilities where there is a significant risk associated with failing, inadequate or obsolete infrastructure, resident safety, fire safety and/or occupational health and safety;
- Category 3 – “At watch” – facilities with limited economic life, deteriorating with age and requiring replacement within approximately 5-10 years; and
- Category 4 – Facilities that meet certification requirements and will not require redevelopment over the next decade.

(a) *Auditor-General's findings and recommendations*

After adjusting the results of their sample assessments for re-classification into the categories used in DHS's fabric survey, the Auditor-General found that:⁴¹⁴

- The risk of failure in meeting the Commonwealth 2008 certification requirements for space and privacy had been mitigated; and
- A significant number of facilities classified by DHS in 2001 as not requiring redevelopment had moved into the “At risk” category (Category 2) meaning an increase in the number of aged care facilities in this category.

The Auditor-General's report concluded that the condition of a number individual facilities had improved since DHS's 2001 fabric survey, as a result of rebuilding or renovation, the condition of the majority of facilities had not improved since that time. The report stated that this conclusion was based on the movement of a number of facilities from categories 3 and 4 to the “At risk” category which the Auditor-General estimated to be 104 facilities at the time of the assessment compared with 33 in 2001. In addition, as stated earlier, 51 per cent of the 49 facilities inspected did not meet aspects of the criteria established by the Commonwealth Government in relation to current fire safety standards.⁴¹⁵

⁴¹³ Victorian Auditor-General's Office, *Condition of public sector aged care facilities*, August 2006, pp.71-72

⁴¹⁴ *ibid.*, p.73

⁴¹⁵ *ibid.*, p.74

Based on the assessments, the report stated that the short-term capital investment needs of public sector residential aged care facilities had grown requiring both DHS and service providers to develop strategies to address the associated risks of failing infrastructure and improve the condition of facilities.⁴¹⁶

The report recommended that DHS adopt a system of periodic review of compliance of public sector residential aged care facilities with the Commonwealth's certification requirements to ensure that facilities continue to meet the applicable standards.⁴¹⁷

(b) Response by the Department of Human Services

In the response to the report, the then Secretary of DHS stated that, between 2000 and 2006, there had been a significant investment in improving the condition of public sector residential aged care facilities through replacement and upgrade. DHS pointed out that the Auditor-General's assessment found 92 per cent of facilities to be 'at or above the required condition' and had acknowledged that all facilities had been assessed as meeting the Commonwealth's certification standards. DHS asserted that the conclusion in the report that the overall condition of public sector residential aged care facilities had not improved since 2001 was "not consistent with tangible fact".⁴¹⁸

In the *Response by the Minister for Finance to the Auditor-General's Reports issued during 2006-07*, DHS advised, in respect to the Auditor-General's recommendation for a system of periodic review of facilities for compliance with the Commonwealth's certification requirements, that:⁴¹⁹

If the Commonwealth alters its requirements in relation to certification, DHS will review its processes and procedures. In relation to fire risk management, each facility will continue to have regular fire safety audits and any consequential works undertaken in accordance with the requirements of the Fire Risk Management Program.

(c) Subsequent developments

In February 2008, the Committee requested comments from the Auditor-General on DHS's response to the findings and recommendations in the report. The Auditor-General advised the Committee that in his view the Department's response did not address the issue identified in the audit. The Auditor-General stated that his report acknowledges that all public sector residential aged care facilities were certified at the time of audit against the *1999 Aged Care Certification Assessment Instrument* however, the report also states:⁴²⁰

- once a facility meets the Commonwealth certification requirements, it retains its certification status unless revoked by the Commonwealth; and
- changes to the BCA may mean that facilities that have previously achieved certification may not continue to meet the standards over time.

⁴¹⁶ *ibid.*

⁴¹⁷ *ibid.*, p.75

⁴¹⁸ *ibid.*, p.15

⁴¹⁹ Department of Treasury and Finance, *Response by the Minister for Finance to the Auditor-General's Reports 2006-07*, p.39

⁴²⁰ Mr D Pearson, Auditor-General, letter to the Committee, received, 11 March 2008, p.17

The Auditor-General commented that DHS's response suggests that because all public sector residential aged care facilities met the certification when they were originally assessed that they will automatically meet the standards in the future. Under the *Aged Care Act 1997*, certification of an aged care service may be reviewed at any time and failure to meet certification requirements can result in revocation of certification. The Auditor-General reiterated his recommendation for DHS to develop a system of periodic assessment to ensure that public sector residential aged care facilities continue to meet the Commonwealth's certification standards.⁴²¹

In response to a request by the Committee for further information from DHS in relation to this issue, the Department restated that it considered that the current processes in place including local management and maintenance of facilities, regular fire audits, periodic fabric surveys and compliance with building code changes that are introduced retrospectively, were appropriate to ensuring that certification standards are maintained.⁴²²

As mentioned in Chapter Three of this report, DHS advised that it was currently in the process of undertaking the 2006 fabric survey, due to be completed in the third quarter of 2009 (these surveys form part of the Department's approach to managing the assets in its portfolio). At the Committee audit hearing in March 2008, the Secretary of DHS advised that the Department undertakes this type of survey approximately every 5 years to assess the condition of all health service facilities and to provide more up to date information on where the Department should be directing its priorities for capital re-development. The survey provides information on the condition of facilities and identifies issues concerning a facility's condition in terms of suitability for the types of care it is used for against the current standards of care required.⁴²³

In September 2008, DHS advised that the first stage of the survey which involves a self survey of all facilities to provide a comprehensive database of all facilities used to deliver health and aged care services has been completed. It advised that the next stage will involve a more detailed site assessment by specialist consultants of the larger and potentially higher risk facilities, including all public sector residential aged care facilities. DHS anticipates the survey will be completed by the third quarter of 2009 and will inform capital redevelopment priorities on the Department's MYS, which is updated annually.⁴²⁴

(d) Conclusion

Whilst the Committee is appreciative of the enormity of the task of conducting a fabric survey of the assets in DHS's portfolio, it is of some concern to the Committee that the survey, due to be undertaken every five years by the Department, is still outstanding seven years after the last one was completed. If it is finalised in the third quarter of 2009, as suggested by DHS, it will have taken place eight and a half years after the last survey.

As such the assessment conducted by the Auditor-General in 2006 which indicated that the number of public sector residential aged care facilities in 'Category 2' had increased suggests that two years down the track this situation could have deteriorated further. However, DHS has no way of knowing the current condition status of facilities.

The survey provides crucial information to DHS which assists in the more efficient and effective targeting of capital works funding and has the potential to provide flow-on improvements in service delivery as well as assisting the Department to mitigate risk associated with infrastructure. It is essential that such surveys take place regularly.

⁴²¹ *ibid.*, p.18

⁴²² Ms F Thorn, Secretary, Department of Human Services, letter to the Committee, received 11 March 2008, p.16

⁴²³ Ms F Thorn, Secretary, Department of Human Services, transcript of evidence, 27 March 2008, p.5

⁴²⁴ Ms F Thorn, Secretary, Department of Human Services, letter to the Committee, received 12 September 2008, pp.12-13

The Committee recommends that:

Recommendation 9:

The Department of Human Services, as a priority:

- (a) undertake fabric surveys in a more timely manner in future;**
- (b) consistent with the Auditor-General's recommendation, put in place a process to undertake assessments of public sector aged care facilities between fabric surveys;**
- (c) undertake future fabric surveys every 5 years to provide the Department with current information to inform asset-management decision making; and**
- (d) finalise the current fabric survey and prepare a strategy to address infrastructure needs highlighted.**

PART D – PRIORITY TWO FOLLOW-UPS

CHAPTER 1: DELIVERING REGIONAL FAST RAIL SERVICES

1.1 Introduction

The Auditor-General undertook an investigation of the delivery of fast rail services to a number of regional centres.⁴²⁵ The investigation found that overall; the Department of Transport (DOT) did not have an adequate project development and management framework in place. This led to a number of weaknesses in the implementation and management of the fast rail services project including:⁴²⁶

- no adequate costing or risk assessment was undertaken;
- an underestimation in the project costs; and
- the benefits of the regional fast rail services were significantly overestimated.

The Auditor-General found that there was a lack of proper planning and no agreement on key design issues with stakeholders before construction contracts were awarded. The contracts entered into by DOT were based on a conceptual design which did not assign the risks of increased time and cost to the contractor; rather these were borne by the state. This resulted in a substantial number of contract variations submitted by the contractor, which impacted on the time and cost of the project.⁴²⁷

As well, the Auditor-General concluded that expected project benefits from the new timetabled train services were not realised. To meet the government's journey times, trains had to run non-stop. However as a minority of rail passengers' travel to the end of the rail corridor, only a handful of express services can be scheduled.⁴²⁸

The audit also examined an external review of transport planning undertaken by DOT, which found that DOT did not have sufficient resources available to undertake adequate project development work.⁴²⁹

The audit made no recommendations.

1.2 Auditor General Comment

The Auditor-General did not comment as this audit contained no recommendations.⁴³⁰

1.3 Departmental Response

The DOT has informed the Committee that since the audit on regional fast rail was completed, it has worked towards improving its project management capability by implementing a Project

⁴²⁵ Victorian Auditor-General's Office, *Results of special audits and other investigations*, August 2006.

⁴²⁶ *ibid.*, pp.5-6

⁴²⁷ *ibid.*, p.5

⁴²⁸ *ibid.*, p.7

⁴²⁹ *ibid.*, p.21

⁴³⁰ Mr D Pearson, Victorian Auditor-General, letter to the Committee, received 29 July 2008, p.5

Management Framework (PMF) for the department.⁴³¹ The PMF was launched in 2007 and in April 2008 was further revised. DOT reports that the PMF provides advice and clarification on:⁴³²

- identifying and agreement with project goals;
- identifying resources required to deliver a project;
- ensures accountability for results and performance; and
- fosters a focus on the outcomes to be achieved.

Further, DOT reports that:⁴³³

Incorporated into the launch of the PMF was the creation of PMF champions within each Division and a comprehensive training program and information sessions. To date these have been attended by over 700 Departmental staff.

As well, DOT reports they have developed a range of supporting documentation and processes. These include:⁴³⁴

- project management guidance material, which includes a cost benefit analysis;
- project risk management guidelines;
- access to subject matter experts when developing project proposals; and
- a project review committee, which oversights projects from inception through to completion.

1.4 Conclusion

DOT has implemented a project management framework and associated governance arrangements to address the findings of the regional fast rail service audit. This includes a project management framework, guidelines, training and a committee to oversee development and delivery of projects.

The Committee notes the progress made by DOT in implementing a project management framework.

⁴³¹ Mr J Betts, Secretary, Department of Transport, letter to the Committee, received 30 July 2008, p.1

⁴³² *ibid.*, pp.1-2

⁴³³ *ibid.*, pp.1-2

⁴³⁴ *ibid.*

CHAPTER 2: RAIL GAUGE STANDARDISATION PROJECT

2.1 Introduction

The rail gauge standardisation (RGS) project special investigation examined how well the DOT had planned and managed the RGS project,⁴³⁵ which aims to convert 13 prioritised broad gauge Victorian freight lines across four rail corridors to standard gauge.

The audit found that the Government's commitment to convert the freight lines to standard gauge by 2005 had not been achieved. This was primarily because there was no agreement between the lessee, Freight Australia (later Pacific National) regarding access arrangements to the track. This resulted in both cost and time delays to the project.⁴³⁶

It was also found that the advice provided to government as a result of the original feasibility study was incomplete and led to the cost and timing issues. The original feasibility study undertaken did not include a risk management plan or an adequate cost benefit analysis. As a result, the audit concluded that there had been inadequate project planning at the beginning, which led to many of the problems the RGS project encountered.⁴³⁷

The audit concluded that the issues with the RGS project could not be resolved until the DOT reached an agreement with the lessee.⁴³⁸ The audit, however, made no recommendations.

Consistent with the audit of delivering regional fast rail service, this audit also found that DOT had not undertaken adequate project planning or management. DOT did not have agreement with the lessee of the rail line to gain access to the track prior to commencing the project. This caused both cost and time delays to the project. Given the dollar value of the project, more thorough planning should have been undertaken.

2.2 Auditor General Comment

The Auditor-General did not comment as this audit contained no recommendations.

2.3 Departmental Response

In August 2006, the RGS project investigation concluded that issues could not be resolved until the DOT reached an agreement with the lessee. This was addressed in May 2007, when the Government bought back the lease of the freight rail track from Pacific National.⁴³⁹

⁴³⁵ Victorian Auditor-General's Office, *Results of special audits and other investigations*, August 2006, p.102

⁴³⁶ *ibid.*, pp.95-96

⁴³⁷ *ibid.*, p.95

⁴³⁸ *ibid.*

⁴³⁹ Mr J Betts, Secretary, Department of Transport, letter to the Committee, received 30 July 2008, p 2

DOT has since conducted a review, the *Rail Freight Network Review* in June 2007, which reported on the priority for upgrading and/or standardising freight rail lines. DOT report that this review concluded that:

*... standardisation of the whole network could not be justified although opportunities should be taken in the future to standardise where new and increased traffic tasks eventuate and where there is the need to eliminate break of gauge ramifications.*⁴⁴⁰

DOT has also reported that they have commenced on a number of projects that the recent buyback of the freight rail track has allowed them to commence work. They include the following projects:

- identified propriety lines and allocated funding for upgrades;
- continuing with the Mildura upgrade;
- completed negotiations with Australian Rail Track Corporation (ARTC) for the upgrade and standardisation between Albury and Seymour; and
- progressing a project to increase standard gauge access to Geelong.⁴⁴¹

As discussed earlier, DOT states that they have implemented a project management framework, associated documentation and a governance structure to support effective project planning and delivery and this framework will assist DOT in future project delivery.

2.4 Conclusion

The recent buyback of the freight rail track has given DOT the opportunity to undertake a number of rail gauge standardisation and related projects over the coming years, and the State will be making a large financial investment in rail infrastructure throughout Victoria.

While DOT have implemented a project management framework and supporting governance arrangements, these should be reviewed by the Auditor-General in regard to their scope and applicability.

Recommendation 1:

The Auditor-General place on his audit plan, a review of Department of Transport's project management framework and the supporting governance arrangements to ensure they are sufficiently robust.

⁴⁴⁰ *ibid.*, p.2

⁴⁴¹ *ibid.*

CHAPTER 3: DOCKLANDS FILM AND TELEVISION STUDIOS

3.1 Introduction

In November 2004, the Government, through the Department of Innovation, Industry and Regional Development (DIIRD), entered into a supplementary contractual arrangement (the original contract was signed in September 2002) with the developer of the Docklands film and television studio (Dockland Studio). The Government loaned the developer \$31.5 million to build the studio, and in 2004, the State increased its financial investment in the studio.⁴⁴²

Through a supplementary contract, the State guaranteed the developer's loan of \$14.5 million from a private source. The State also deferred the repayment of its \$31.5 million loan for a further two years (repayments to commence in February 2008), as well as:⁴⁴³

- suspended lease payments for the studio site;
- deferred the start of construction of the supporting commercial development;
- funded a perimeter fence;
- charged a peppercorn rent for use of certain crown land; and
- transferred ownership of a warehouse to the developer.

In return the State strengthened its right to appoint an administrator or receiver for the studios under certain circumstances. The private lender also has been given this right. The developer, in return increased their equity in the studios by \$2.5 million.⁴⁴⁴

The audit found that there were positive elements to the State's contract management arrangements, such as detailed procedures and a good working relationship with the studio management. However, DIIRD did not require the studio to provide documentation that it was contractually obligated to provide. This included:⁴⁴⁵

- a financial year business plan with a comparison of budget forecasts and actuals;
- quarterly operational reports were not provided for two quarters; and
- audited financial report for 2003-04.

As well, DIIRD did not exercise its contractual right to audit the studio for compliance with the contract, nor did they verify the key performance information (KPI) provided by the studio. The Auditor-General undertook an analysis of the KPIs and determined that the developer had not achieved three of the seven performance indicators.⁴⁴⁶

⁴⁴² Victorian Auditor-General's Office, *Results of special audits and other investigations*, August 2006, p.9.

⁴⁴³ *ibid.*, pp.9-10

⁴⁴⁴ *ibid.*, p.10

⁴⁴⁵ *ibid.*, pp.10-11

⁴⁴⁶ *ibid.*, p.11

The developer projected that there will be substantially lower operating profits than originally stated in the 2002 contract. As a result, the audit estimated that the developer will be able to repay approximately \$12 million of the State's loan over the 20 year repayment period. At the end of this period, the developer has the option of purchasing the studio outright by repaying the State's loan; lease the site for 10 years at market rates, or if not, ownership transfers to the State.⁴⁴⁷

With these gaps in information regarding the performance of the studio, as well as a reduced revenue forecast, the State entered into a contract whereby the State guarantees the loan of \$14.5 million. The audit concluded that DIIRD should have assessed the developer's financial performance more thoroughly before guaranteeing the developer's loan to determine the likelihood of the State having to take on the loan.⁴⁴⁸

The audit made four recommendations. That DIIRD:

1. Continually assess and brief its Minister about the ability of the developer to pay its loans, the likelihood that the State will have to take over the developer's borrowings and the likelihood of the State's loan being repaid;⁴⁴⁹
2. Establish appropriate and regular reporting processes for the developer, systems to capture evidence to allow for assessment of the developer's performance and regular reporting to the Secretary and Minister on the developer's performance, as well as regularly monitor the repayments made by the developer to the external lender;⁴⁵⁰
3. Engage commercial advisors or appropriate expertise to prepare a revised financial forecast over the 20 year life of the studio and review and monitor the current and projected financial position to assess the project's ongoing financial risk to the State;⁴⁵¹ and
4. Develop a methodology to quantify the contribution of the studio to annual increases in film and television production spending in Victoria.⁴⁵²

3.2 Auditor General Comment

The Auditor-General stated that his office has not conducted any follow-up of this audit and therefore he was not able to comment.⁴⁵³

3.3 Departmental Response

3.3.1 Recommendation 1 – Ministerial Briefing

DIIRD reports that they provide the Minister with regular quarterly updates regarding the Docklands Studio and other reports on an exceptions basis.⁴⁵⁴

⁴⁴⁷ *ibid.*, p.12

⁴⁴⁸ *ibid.*, p.11

⁴⁴⁹ *ibid.*, p.135

⁴⁵⁰ *ibid.*, p.147

⁴⁵¹ *ibid.*, p.152

⁴⁵² *ibid.*, p.155

⁴⁵³ Mr D Pearson, Victorian Auditor-General, letter to the Committee, received 29 July 2008, pp.4-5

⁴⁵⁴ Mr H Ronaldson, Secretary, Department of Innovation, Industry and Regional Development, letter to the Committee, received 15 August 2008, p.1

The Committee is pleased to note the progress made by DIIRD in implementing regular reporting to the Minister. The Committee also notes the continuing importance of regular reporting to the Minister, given the deferral of repayments of the State's loan of \$31.5 million plus interest, and the need to monitor the private loan of \$14.5 million, for which the State is guarantor.

3.3.2 Recommendation 2 – Regular reporting by the developer

Following the 2006 Auditor-General audit, DIIRD reports that they have reviewed and updated the KPI performance reporting requirements. As well DIIRD reports that they have been monitoring the KPIs with the assistance of external sources such as Department of Treasury and Finance (DTF) and Film Victoria. Based on their assessment, DIIRD has determined that at the end of December 2008, the developer had achieved six out of seven KPIs, with the seventh relating to the development of a commercial cluster not yet determinable.⁴⁵⁵

DIIRD also reports that the developer has provided them with quarterly reports, annual business plans and audited financial statements.⁴⁵⁶

The Committee is pleased to note that DIIRD have been ensuring the developer provides regular reports, including quarterly reports, annual business plans and audited financial statements for DIIRD's assessment. As well DIIRD have been undertaking independent assessments of the developers KPIs, which will assist to ensure the benefits of the Docklands Studio is realised. The Committee considers that there is a need for continued monitoring of the developers performance to ensure that the developer is meeting the State's requirements.

3.3.3 Recommendation 3 – Engage commercial advisors

In regard to the debts of the Docklands Studio, DIIRD reports that the developer has made regular repayments in relation to the private loan of \$14.5 million.⁴⁵⁷

However the developer sought and received a further deferral of the State's loan, and the developer is to commence making repayments on 30 September 2008. The balance of the State loan as at 30 June 2008 was \$33,736,500 million. DIIRD reports that:⁴⁵⁸

DIIRD's assessment, on advice from our commercial advisers, is that the developer may have difficulty in fully repaying the State loan before the end of the concession period. This assessment has been based on a range of factors...including exchange rate variations, higher debt servicing costs and insufficient revenue.

While the developer has made regular repayments on the private loan of \$14.5 million, the Committee notes that the repayment of the State's loan has been extended again, with no regular repayments made, indicating that the developer may not be able to service both loan repayments in the short term.

Both the assessment by the Auditor-General and the commercial advisers have concluded that the developer may have difficulty in repaying the loan by the end of the 20 year concession period.

⁴⁵⁵ *ibid.*, p.2

⁴⁵⁶ *ibid.*

⁴⁵⁷ *ibid.*, p.1

⁴⁵⁸ *Ibid.*, p.3

The Committee considers that, given the size of the State's investment in the Docklands Studio, and the report from the commercial advisers, that the developer may have difficulty in fully repaying the loan, continued and regular monitoring of the loan, and appropriate timely action to address potential default by DIIRD is necessary.

Recommendation 2: **That Department of Innovation, Industry and Regional Development engage commercial advisers or source relevant expertise to undertake regular financial assessments of the Docklands film and television studios.**

The Committee is pleased to note that in regards to recommendation 1, DIIRD have been providing regular reporting to the Minister. Given the financial position of the Docklands Studio, the Committee suggests that regular and frank reporting to the Minister continues.

As well, the Committee considers that it is appropriate for further review and investigation to occur. The Committee considers that the Auditor-General is best suited to undertake further follow-up due to his recent audit activity as well as the mandate and powers he has pertaining to public monies.

The Committee is of the view that it is important that DIIRD's monitoring and management of the contract, as well as the financial status of the State's interest in the Docklands Studio be re-examined.

Recommendation 3: **That, as a matter of priority, the Auditor-General undertakes a follow up audit of the State's investment in the Docklands film and television studio.**

3.3.4 Recommendation 4 – Quantifying film and television production spending in Victoria

The State's objectives for the Docklands Studio were to:⁴⁵⁹

- increase Australian and international film and television production in Victoria;
- foster an accessible and competitive environment for Australian film and television productions in Victoria; and
- provide the local film and television production industry with an internationally competitive capability.

In regards to the financial contribution the Docklands Studio has made to film and television spending and the Victorian economy, the Committee sought details of these annual assessments undertaken pertaining to the studios' contribution to film and television spending in Victoria.

⁴⁵⁹ Victorian Auditor-General's Office, *Results of special audits and other investigations*, August 2006, p.125

DIIRD provided Film Victoria's information for the Docklands Studio covering international films, Australian films and television.⁴⁶⁰ This is included in the table below:

Table 3.1 Melbourne Central City Studios – Production Activity

Year	ESTIMATED VICTORIAN SPEND AU\$ MILLION	ESTIMATED GENERATED SPEND AU\$ MILLION *	ESTIMATED EMPLOYMENT FIGURES (FTE) ^
International films			
2004/05	43	77.4	1290
2005/06	26	46.8	780
2006/07	30	54	900
2007/08	130	234	3900
Australian Films			
2003/04	12.16	21.888	364.8
2005/06	3.886	6.9588	115.98
Television			
2004/05	10.6	19.08	318
2005/06	2.5	4.5	75
2006/07	1.65	2.97	49.5

Notes: * Based on the Australian Bureau of Statistics economic multiplier for this industry (\$1 is equal to \$1.8 in generated spend)

^ Generated Employment is based on the Australian Tax Office national multiplier for calculation Full Time Equivalent positions (FTE) – each \$1 million of production equals 30 FTE

Source: Department of Innovation, Industry and Regional Development

The Committee notes the advice from DIIRD that the level of production activity under each of the three genres varied from year to year depending on the stage bookings.

In regards to the estimated employment figures, the Committee acknowledges that the Docklands film studio has undoubtedly generated employment in Victoria in the film and television industry as well as the flow-on effect that this spending has had in the community.

⁴⁶⁰ Mr H Ronaldson, Secretary, Department of Innovation, Industry and Regional Development, letter to the Committee, received 15 August 2008, p.4

3.4 Conclusion

DIIRD's performance monitoring of the Docklands Studio has improved since the Auditor-General's audit was undertaken. Previously DIIRD did not undertake regular reporting to the Minister, nor did they require the studio to provide documentation the developer was contractually obligated to provide. DIIRD now report that they undertake regular reporting to the Minister as well as ensuring the studio provides all relevant documentation.

At present, it seems likely that the developer will not be able to pay the State's loan at the end of the 20 year loan period. The developer has sought a further deferral of repayments since this audit was completed and is expected to commence making repayments in September 2008. While DIIRD has engaged a commercial adviser to assess the financial situation of the Docklands Studio, the Committee believes that regular assessments from commercial advisers, or those with relevant expertise, is warranted given the size of the loan and the likelihood that the developer will not be able to repay the loan. As well, the Committee believes that further scrutiny by the Auditor-General is warranted to ensure the State's investment is protected.

While Film Victoria have undertaken assessments of the contribution the Docklands Studio has made to the film industry, the Committee recommends that DIIRD undertake a more thorough assessment, ensuring figures for all years are available and that they are compared to spending in years prior to the Docklands Studio to determine to what extent the Government's objective of an increase in film and television production in Victoria has been realised.

CHAPTER 4: VOCATIONAL EDUCATION AND TRAINING: MEETING THE SKILL NEEDS OF THE MANUFACTURING INDUSTRY

4.1 Background

In July 2006, the Auditor-General tabled a report in Parliament, *Vocational education and training: Meeting the skill needs of the manufacturing industry*. In assessing the vocational education and training (VET) sector in Victoria, the audit examined how well Victoria's VET system is meeting the needs of the manufacturing industry.⁴⁶¹ Approximately \$900 million (about 30% of this is contributed by the Commonwealth) is spent annually by the Victorian Government on the VET system.⁴⁶²

The Victorian Learning and Employment Skills Commission (VLESC) purchases publicly funded training for the State. VLESC identify training needs for the State, and to do this they draw on many groups, including several statutory bodies, eighteen Industry Training Advisory Bodies (ITABs) and eighteen Technical and Further Education (TAFE) providers.

In undertaking its role, VLESC often relies on work delegated to, or produced by the Office of Training and Tertiary Education (OTTE), which at the time of audit was located in the Department of Education and Training. The audit noted that this arrangement has the potential to reduce the capacity of VLESC to be independent.⁴⁶³

While the audit found that VLESC has an extensive planning framework that it uses, this is mostly focused on OTTE's planning work. The audit found that OTTE's data provided an emerging trend for the manufacturing industry; however it did not identify skill needs or gaps and overlaps, and strategies to address these.⁴⁶⁴

The annualised purchasing model used by VLESC focused on student contact hours, and this does not allow TAFE institutions to respond quickly to industry needs. As a result, strategically important initiatives not in the purchasing agreement were given a lesser priority, leading the sector to be less responsive to changes in industry skill needs. The audit suggested that a rolling three year business plan, with a more flexible outcomes approach to funding, would give TAFE institutions the ability to be more responsive.⁴⁶⁵

In regards to performance information, the audit found that much of the data collected does not appear to be used, and where it is, it is often difficult to understand. As a result, this led to the risk that success is not captured and that OTTE is not able to determine if training has been successful for participants or the industry.⁴⁶⁶

⁴⁶¹ Victorian Auditor-General's Office, *Vocational education and training: Meeting the skill needs of the manufacturing industry*, July 2006, p.4

⁴⁶² *ibid.*, p.3

⁴⁶³ *ibid.*, p.5

⁴⁶⁴ *ibid.*, p.6

⁴⁶⁵ *ibid.*, pp.76-77

⁴⁶⁶ *ibid.*, pp.9-10

In assessing VET, the audit examined whether TAFE institutions understood the business environment in which manufacturing enterprises operate and whether they were able to identify current and emerging skill needs, and transfer these into training. The audit found that the understanding amongst TAFE institutions was variable, and that the established delivery mode did not allow for more customised training. However, the audit found some TAFE institutions demonstrated a good understanding of the business environment of enterprises and were able to offer more responsive training in response to specific business needs.⁴⁶⁷

The audit also assessed whether TAFE institutions had a skilled and adaptable workforce. TAFEs need to have both management and teaching staff that are knowledgeable in the business environment they operate in. The audit found that TAFEs, like many other organisations in Australia, are competing in a diminishing labour market. Workforce planning data was poor, and makes it difficult to address future workforce requirements of the VET industry

The audit made nine recommendations. They are summarised below:

1. That the capacity of VLESC and other statutory bodies in the VET system be strengthened to provide independent advice;
2. That OTTE adjust its planning function by collaborating more with TAFE institutions governing Councils and other government departments when developing strategic planning advice for VLESC;
3. That VLESC develop a new approach to publicly funded VET in TAFE that centres around a business plan with performance requirements;
4. That OTTE work with TAFE institutions in planning and strategic development so that their business plans enable them to meet State and Commonwealth targets and policy objectives as well as skill needs of local enterprises;
5. That OTTE redevelop its performance information framework to allow TAFEs and other training institutions to determine whether training has been successful;
6. That VLESC and the governing councils of TAFE institutions investigate ways to enable TAFE institutions to understand, reinforce engagement with, and build more effective partnerships with industry and enterprise, with the aim of identifying and meeting training needs;
7. That VLESC support TAFE institutions in developing and maintaining a workforce that is abreast of current and emerging industry needs and whole-of-business activities;
8. That, as a matter of urgency, VLESC support the governing councils of TAFE institutions to develop and integrate workforce plans into TAFEs as well as for the broader VET system; and
9. That as a first step in workforce planning, VLESC request OTTE to coordinate the development of a VET workforce data collection so that workforce planning can be integrated into business plans of TAFE institutions.

The full recommendations can be found at Appendix 3.

⁴⁶⁷ *ibid.*, p.12

4.2 Recent Changes

Since the original audit was undertaken in 2006, there has been a number of machinery of government changes. In particular:

- The Victorian Skills Commission (VSC) was established in June 2007 and continues the work of VLESC; and
- With the creation of the Skills portfolio in the Department of Innovation, Industry and Regional Development (DIIRD), OTTE was moved to DIIRD and renamed Skills Victoria in April 2008.

4.3 Auditor-General Comment

The Auditor-General noted that all recommendations, except for recommendation 3, were strongly accepted, accepted, partially accepted or noted by the agencies involved. The Auditor-General also identified that agencies had reported progress towards implementation of the recommendations in *Response to the Minister for Finance to the Auditor-General's reports issued during 2006-07*.⁴⁶⁸ The Auditor-General commented more in depth in relation to recommendation 3. His comments have been incorporated into the discussion below.

4.4 Departmental Response

4.4.1 Recommendations 1 & 2 – Provision and validation of advice

In regards to recommendation 1 and 2, ensuring that statutory bodies and Skills Victoria provide independent advice and validation of that advice, in 2007 Skills Victoria undertook an independent assessment of its inputs into the VSC planning framework. As well, the robustness and adequacy of current advisory inputs was reviewed. This review recommended that there be an independent process to validate information provided by key stakeholders to ensure that it presents a whole of industry view.⁴⁶⁹

In response to recommendation 2, Skills Victoria has put in place a process for validating reports on Change Drivers by ITABs this year. Half the reports underwent the validation process in June/July, with the remaining undergoing validation in September/October.⁴⁷⁰

The review also recommended that the Study Area Reference Groups (Reference Groups), be restructured. These Reference Groups are located in regional areas of Victoria and provide advice relating to regional industry training and skill development needs. As part of the restructure, the Reference Groups are chaired by an industry representative, the deputy chair is from a TAFE institution and DIIRD Regional Managers are actively involved.

⁴⁶⁸ Mr D Pearson, Victorian Auditor-General, letter to the Committee, received 29 July 2008, p.2

⁴⁶⁹ Mr H Ronaldson, Secretary, Department of Innovation, Industry and Regional Development, letter to the Committee, received 4 September 2008, p.1

⁴⁷⁰ *ibid.*

DIIRD reported that:⁴⁷¹

Implementation of these initiatives has resulted in more targeted intelligence and advice relating to regional industry training and skill development needs.

The Committee notes that the move of Skills Victoria to DIIRD has allowed for a clearer link between training and the needs of industry. As well, DIIRD has restructured the Reference Groups in an effort to better integrate the needs of industry and training institutions.

The Committee also notes the efforts undertaken by Skills Victoria in implementing a validation process on the Change Drivers by ITABs. While it is still in its early stage, the Committee believes that a review of the validation process after two years of operation would assist DIIRD in refining the model and validation process.

Recommendation 4: That Department of Innovation, Industry and Regional Development undertake a review of the validation process for Change Drivers after two years of operation.

4.4.2 Recommendation 3 – Business Planning for VET in TAFE institutions

At the time of audit, this recommendation was not accepted by the former VLESC and DIIRD neither agreed nor disagreed.⁴⁷² The former VLESC commented that:⁴⁷³

The report has failed to acknowledge that, following the release of the 2002 Ministerial Statement on Knowledge and Skills, the VLESC replaced annualised purchasing agreements with three-year performance agreements. The period of operation of these agreements, and the student contact hour targets contained therein, reflect the output requirements established by the Commonwealth in its triennial contract with the Victorian government and are subject to annual variations in response to annual state budgets.

Four TAFE institutes agreed in principle, agreed or strongly agreed with the Auditor-General's recommendation.⁴⁷⁴

In June 2008, the Committee wrote to DIIRD seeking the Department's reasons for not accepting the recommendation.⁴⁷⁵ The Secretary, DIIRD replied that:⁴⁷⁶

The requirement to establish performance agreements between the VSC and Boards of TAFE institutions is contained in the Education and Training Reform Act 2006 (The Act). The Act also outlines the functions and accountabilities of TAFE institutions as public sector entities. For example, a function of TAFE boards is to oversee and govern the institute efficiently and effectively and to prepare periodic

⁴⁷¹ *ibid.*, p.2

⁴⁷² Victorian Auditor-General's Office, Vocational education and training: Meeting the skill needs of the manufacturing industry, July 2006, p.79

⁴⁷³ *ibid.*, p.78

⁴⁷⁴ *ibid.*, p.80

⁴⁷⁵ Mr B Stensholt, Chair, Public Accounts and Estimates Committee, letter to Department of Innovation, Industry and Regional Development, sent 26 June 2008, p.2

⁴⁷⁶ Mr H Ronaldson, Secretary, Department of Innovation, Industry and Regional Development, letter to the Committee, received 15 August 2008, p.3

strategic and management plans for the institute. The Act was proclaimed after the Auditor-General's report was prepared, so these legislative requirements may not have been considered when the recommendation was made.

The response went on to say that three year agreements currently exist, and were entered into in 2006. The delivery of training is measured in contact hours, consistent with national reporting standards and requirements and that this is a requirement as part of the Commonwealth-State funding agreement.⁴⁷⁷

The Auditor-General, noted in his response to VLESC's comment to this recommendation in the audit report that:⁴⁷⁸

While VLESC negotiates three year performance agreements, in practice, these agreements continue to be subject to lengthy renegotiations annually. For the period 2006-2008, copies of these agreements provided to us by OTTE contain SCHs [student contact hours] for 2006, with forward estimates for 2007 and 2008 that are indicative and on an unchanged policy basis, and based on the 2005 budget allocation.

Based on the information available, the Committee notes that while DIIRD have moved towards three year performance agreements with TAFE institutes, although they are not rolling three year agreements. It would be appropriate for the VSC to review its processes in the light of the Auditor-General's comments.

Recommendation 5: **That the Victorian Skills Commission review its planning process to be a forward, incremental and benchmarked rolling three year plan.**

4.4.3 Recommendations 4 – Planning and Strategic Development for Skills Victoria and TAFE institutes

When the Committee sought information on the progress on the implementation of this recommendation, DIIRD responded that:

OTTE is continuing to work in partnership with TAFE institutions to enhance their capacity to develop strategic plans that adequately respond to Commonwealth and state priorities and accountabilities in the context of the skill needs of their clients⁴⁷⁹

The Committee asked DIIRD to provide examples of how Skills Victoria's actions have resulted in TAFE institutions' ability to enhance their capacity to develop strategic plans.⁴⁸⁰

⁴⁷⁷ *ibid.*

⁴⁷⁸ Victorian Auditor-General's Office, Vocational education and training: Meeting the skill needs of the manufacturing industry, July 2006, p.81

⁴⁷⁹ *ibid.*, p.3

⁴⁸⁰ Mr B Stensholt, Chair, Public Accounts and Estimates Committee, letter to Department of Innovation, Industry and Regional Development, sent 26 June 2008, p.4

DIIRD provided the following response:⁴⁸¹

Skills Victoria, through the Public Skills Funding Unit, assists TAFE institutions to develop training plans which form part of the performance agreement and illustrate the planned profile of training delivery for the academic year. Public Skills Funding provides templates, guidance and electronic tools to assist institutes to meet the requirements of government policy and priorities for training delivery.

The Committee notes that DIIRD is continuing to implement recommendation 4, and is working towards implementation. The Committee notes that Skills Victoria state that it provides a range of templates and guidance for developing training plans to assist TAFE institutes meet the requirements of government policy. The Committee believe that this advice could be further enhanced to link policy and planning actions so that TAFE institutions develop comprehensive strategic plans that also take into account the skills needs of local enterprises.

Recommendation 6: **That Department of Innovation, Industry and Regional Development continue to implement the Auditor-General's recommendation and provide TAFE institutions with guidance in developing strategic plans which link into the business plans of both Skills Victoria and TAFE institutions as well as general Government policy.**

4.4.4 Recommendation 5 – Performance Information

In response to this recommendation, DIIRD noted that this recommendation was consistent with the findings of another review, *VET Inquiry* and also *Maintaining the Advantage: Skilled Victorians*.⁴⁸²

DIIRD report that the former OTTE produced a report, called the *TAFE Selected Measures Report*, which provides TAFE institutions with data to determine whether government objectives are being met and also can be used by TAFE institutions for benchmarking performance. This report was reviewed in consultation with TAFE institutions, and in 2007, a revised version was produced. The report tracks student participation and delivery across target areas, such as age groups, equity groups, industry groups and qualification levels.⁴⁸³

The former OTTE noted in the Response by the Minister for Finance to the Auditor-General's Reports issued during 2006-07, that they now oversee the production on an annual basis of the TAFE Selected Measures Report. DIIRD said that the TAFE Selected Measures Report:⁴⁸⁴

... provides useful feedback to institutions' management and governance bodies on the performance of TAFE institutions as the system level as well the relative performance of each institution, primarily for improvement and benchmarking purposes.

⁴⁸¹ *ibid.*, p.3

⁴⁸² Mr H Ronaldson, Secretary, Department of Innovation, Industry and Regional Development, letter to the Committee, received 15 August 2008, p.3

⁴⁸³ *ibid.*, p.4

⁴⁸⁴ Department of Treasury and Finance, *Response by the Minister for Finance to the Auditor-General's Reports 2006-07*, p.80

While the Committee notes that Skills Victoria has reviewed and revised this document, the Committee is unsure as to whether it now actually measures and tracks outcomes, as recommended by the Auditor-General. While the Committee does not doubt that input data is of value to Skills Victoria and to TAFE institutions, measuring the outcomes of training in meeting government training objectives is also very important.

The tracking of outcomes data would provide TAFE institutions with information on a range of outcome focused information including, but not limited to, whether their courses are relevant and well targeted, whether training meets industry expectations, success of graduates as well as provide assurance to the Government that funds are well targeted and appropriately spent.

Recommendation 7: **That Department of Innovation, Industry and Regional Development ensure that through its *TAFE Selected Measures Report* or other such document, outcomes of Vocational Education and Training are tracked and measured in meaningful and reliable ways.**

4.4.5 *Recommendations 6 & 7 – Engagement with Industry via Trained Staff*

The Committee sought information on what action DIIRD had undertaken to implement the recommendations. DIIRD informed the Committee that recommendation 6 is consistent with their current practices and that TAFE institutions are able to contract directly with industry and also build close relationships with them.⁴⁸⁵

DIIRD also noted that Skills Victoria is currently reviewing the governance arrangements, including how TAFE Boards operate and how effective they are in meeting existing and emerging government policy and service delivery objectives.

As well, the VSC provides funding to TAFE institutions for professional development strategies aimed at:⁴⁸⁶

Enhancing, developing and maintaining a workforce that is abreast of current and emerging industry needs and whole-of-business activities

The Committee is pleased to note that VSC is encouraging TAFE institutions to use their professional development funding to keep up to date with emerging industry needs and whole-of-business activities. As well, the Committee notes that a restructure of the Reference Groups will assist to improve interaction and communication between industry and TAFE institutions.

The VSC funds the following professional development initiatives for TAFE institutions:

- **TAFE Development Centre** (\$3.1 million per annum) runs a series of professional development seminars open to all TAFE institutions free of charge;
- **Staff Development Grant** (\$2 million per annum) is allocated directly to TAFE institutions for expenditure on professional development;
- **e-Learning Grant** (\$2.2 million per annum) provides funds to all TAFE institutions to increase professional development in the area of e-learning; and

⁴⁸⁵ *ibid.*, p 4

⁴⁸⁶ *ibid.*, p.5

- **International Specialised Skills Institute** (\$339,000 per annum) is a small not-for-profit organisation that provides 10 fellowships annually to TAFE teachers to travel overseas for short tailored visits to acquire skills or knowledge, or for experts to travel to Australia.⁴⁸⁷

DIIRD report that these initiatives have been successfully implemented. Examples of this include:

- industry placements in the aviation industry to gain a better understanding to more effectively deliver the Aeroskills training package;
- industry and TAFE staff undertaking a simulated construction project; and
- a secondment to a major trucking company to develop an understanding of software development in the context of freight and vehicle movement.⁴⁸⁸

The Committee is pleased to note that VSC is committed to spending over \$7 million annually on professional development initiatives for TAFE staff. The Committee is also pleased to note the effort and commitment of the VSC in maintaining and enhancing the capacity of TAFE staff to effectively deliver relevant training that meets the needs of industry.

4.4.6 Recommendation 8 – Workforce planning

DIIRD have said in their response to the Committee that they are still implementing this recommendation. The State Service Authority (SSA) undertook research into workforce planning across public sector agencies. The TAFE sector was identified as facing workforce challenges in the future.⁴⁸⁹

A project team, consisting of the SSA, the TAFE Development Centre and the Victorian TAFE Association has been formed. They have funded a project called the TAFE Workforce Planning Project. This project is intended to assist the TAFE sector to develop strategies to address workforce planning issues. A project reference group has also been established and includes representatives from TAFE institutions and Skills Victoria.⁴⁹⁰

DIIRD report that the deliverables will be:⁴⁹¹

A final report that includes the survey and focus group data for the reference group as the final deliverable of the project – it will also highlight future directions for work the TAFE institutions can do on their own and/or collectively as a sector.

The Committee expresses concern regarding the lack of urgency at which this recommendation has been actioned. While the Committee is aware there have been a number of changes in regards to VET in Victoria during this time, the Committee is still of the opinion that this process has been slow, given that this audit was tabled in July 2006.

However, the Committee is pleased to note that this recommendation is being addressed, albeit slowly. The Committee also is pleased that the project reference group includes representatives from TAFE institutions and is of the opinion that this will assist in workforce planning receiving 'buy-in' from TAFE institutions.

⁴⁸⁷ Mr H Ronaldson, Secretary, Department of Innovation, Industry and Regional Development, letter to the Committee, received 4 September 2008, p.5

⁴⁸⁸ *ibid.*, pp.5-6

⁴⁸⁹ *ibid.*, p.6

⁴⁹⁰ *ibid.*

⁴⁹¹ *ibid.*

4.4.7 Recommendation 9 – Data for workforce planning

DIIRD have noted in their response to the Committee that in 2006 and 2007 TAFE institutions were provided with a comparative benchmark report. For 2008, DIIRD report that the reports will be prepared once the 2008 TAFE workforce data collection has been collated and analysed. The Committee also sought information on what workforce planning actions had been undertaken.⁴⁹² DIIRD responded that the actions will be undertaken when the TAFE Workforce Planning Project, discussed above, is completed.⁴⁹³

The Committee notes that TAFE institutions are being provided with workforce data and that this combined with the Workforce Planning Project should assist TAFE institutions to better plan for the future.

⁴⁹² Mr B Stensholt, PAEC Chair, letter to the Committee, received 26 June 2008, *PAEC Review of Auditor-General's Reports – Report on Vocational Education and Training: Meeting the Skill Needs of the Manufacturing Industry July 2006*, p.5

⁴⁹³ Mr Howard Ronaldson, Secretary, Department of Innovation, Industry and Regional Development, letter to the Committee, received 4 September 2008, p.7

APPENDIX 1: ACRONYMS AND ABBREVIATIONS

ACCV	Aged and Community Care Victoria
ANAO	Australian National Audit Office
BCA	Building Code of Australia
DHS	Department of Human Services
DIIRD	Department of Innovation, Industry and Regional Development
DoHA	Department of Health and Ageing
DoT	Department of Transport
FRM	Fire Risk Management
FRMS	Fire Risk Management Strategy
FTE	Full Time Equivalent
ITABs	Industry Training Advisory Bodies
KPI	Key Performance Indicators; Key Performance Information
MYS	Multi-Year Strategy
OTTE	Office of Training and Tertiary Education
PAEC	Public Accounts and Estimates Committee
PMF	Project Management Framework
RGS	Rail Gauge Standardisation
SCP	State-wide Certification Project
TAFE	Technical and Further Education
VET	Vocational Education and Training
VLESC	Victorian Learning and Employment Skills Commission
VMIA	Victorian Managed Insurance Agency
VSC	Victorian Skills Commission

APPENDIX 2: SUBMISSIONS

Submission no.	Date received	Contact/Organisation
1	12/07/2008	Mr Des Pearson Victorian Auditor-General's Office
2	17/04/2008	Mr Gerard Mansour Aged and Community Care Victoria

APPENDIX 3: LIST OF WITNESSES AT PUBLIC HEARINGS

DATE AND TIME	WITNESS	AUDIT
Tuesday 25 March 2008		
2.00pm to 5.00pm	Mr Des Pearson Auditor-General and supporting staff	<i>New Ticketing Tender System Government Advertising Condition of public sector residential aged care facilities</i>
Wednesday 26 March 2008		
2.00pm to 3.00pm	Mr John Fitzgerald Deputy Secretary, Department of Treasury and Finance and supporting staff	<i>New Ticketing Tender System</i>
Thursday 27 March 2008		
9.30am to 12.30pm	Mr Chris Eccles Acting Secretary, Department of Premier and Cabinet	<i>Government Advertising</i>
	Mr Grant Hehir Secretary, Department of Treasury and Finance and supporting staff	
2.00pm to 5.00pm	Ms Fran Thorn Secretary, Department of Human Services and supporting staff	<i>Condition of public sector residential aged care facilities</i>
Monday 31 March 2008		
2.00pm to 4.00pm	Ms Josie Thwaites Probity Auditor, Transport Ticketing Authority	<i>New Ticketing Tender System</i>
Wednesday 2 April 2008		
9.30am to 12.30pm	Dr Michael Pryles Chair, Transport Ticketing Authority	<i>New Ticketing Tender System</i>
	Mr Vivian Miners Chief Executive, Transport Ticketing Authority	
	Mr Howard Ronaldson Secretary, Department of Infrastructure	
Thursday 24 April 2008		
10.30am to 12.30pm	Mr Des Pearson Auditor General and supporting staff	<i>Government Advertising Condition of public sector residential aged care facilities</i>

MINORITY REPORT

REVIEW OF THE FINDINGS AND RECOMMENDATIONS OF THE AUDITOR-GENERAL'S REPORTS 2006 AND 2007

Minority Report by Coalition Members

**Kim Wells MP
Gordon Rich-Phillips MLC
Richard Dalla-Riva MLC
Bill Sykes MP**

Pursuant to section 34 (2) of the Parliamentary Committees Act 2003

We:

Kim Wells MP
Gordon Rich-Phillips MLC
Richard Dalla-Riva MLC
Bill Sykes MP

Submit this minority report:

Minority Report of Certain Members of the Public Accounts & Estimates Committee

We, the undersigned members of the Public Accounts and Estimates Committee (the Committee) have decided to submit a Minority Report and thereby formally oppose the adoption of the *Review of the findings and recommendations of the Auditor-General's reports 2006 and 2007*, as currently drafted.

1. We resolve that the following revised wording, in relation to Section 3.2, page 95, be incorporated into the final review report to replace the existing text.

**“ 3.2 Conclusions of the Auditor-General on tender
management**

Recommendation

“That given the Auditor-General in his earlier report stated the Transport Ticketing Authority (TTA) tender process would ensure “*value for money*” and “...*within the agreed price*”, the Auditor-General, as a matter of priority, instigates a broad scope audit into the myki ticketing system which will include an examination of the ongoing delays, cost blow-outs, the appointment of the new TTA Chief Executive Officer and loss of TTA staff. Furthermore that the Auditor-General investigates the renegotiated Metcard delivery contract with OneLink.”

2. We further resolve that:

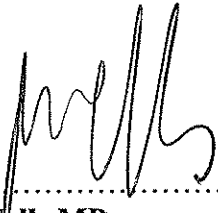
(i) Existing Recommendation 12 on page 111 be removed.

(ii) After section 4.8.3, on page 112, the following wording be incorporated –

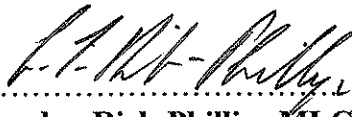
“The Committee notes the subsequent appointment of Gary Thwaites as Chief Executive Officer of the Transport Ticketing Authority and notes the potential for the perception of a conflict of interest given the appointment of his spouse, Ms Josie Thwaites, as Probity Auditor and Probity Advisor to the transport ticketing tender.

Recommendation 12

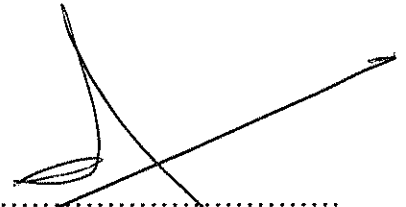
The Committee Recommends that the Transport Ticketing Authority address this perception of a potential conflict of interest.”



.....
Kim Wells MP
Shadow Treasurer



.....
Gordon Rich-Phillips MLC
Shadow Minister for Finance,
Community Development
& Information Technology



.....
Richard Dalla-Riva MLC
Shadow Minister for
Industry & State Development
Major Projects &
Freedom of Information



.....
Bill Sykes MP
Shadow Parliamentary Secretary
Agriculture & Water

11/11/2008

EXTRACT FROM THE MINUTES OF PROCEEDINGS

Monday, 10 November 2008

The Committee considered the draft Report on the *Review of the Findings and Recommendations of the Auditor General's Reports Tabled July 2006 – February 2007*, specifically Part B (New ticketing tender system) and Part C (Condition of public sector residential aged care facilities). Parts A (Government advertising) and Part D (Priority two follow-ups) were previously considered and agreed to by the Committee at its meetings of 6 October 2008 and 27 October 2008, without division.

Part B

Chapter 1: The Committee's Overview of the Auditor-General's Report

Motion: *That subject to minor edits, Chapter 1 be agreed to.*

Moved: Bill Sykes MP Seconded: Wade Noonan MP

Resolved.

Chapter 2: Governance and Planning Arrangements for the NTS Tender

Motion: That Chapter 2 be agreed to.

Moved: Robin Scott MP Seconded: Wade Noonan MP

Resolved.

Chapter 3: Management of the NTS Tender

Motion: *Amendment to section 3.2, page 95 be inserted as follows:*

That given the Auditor-General in his earlier report stated that the Transport Ticketing Authority (TTA) tender process would ensure 'value for money' and '...within the agreed price,' the Auditor-General, as a matter of priority, instigates a broad scope audit into the MYKI ticketing system which will include an examination of the ongoing delays, cost blow-outs, the appointment of the new TTA Chief Executive Officer and the loss of TTA staff. Furthermore, that the Auditor-General investigates the renegotiated Metcard delivery contract with OneLink.

Moved: Kim Wells MP Seconded: Richard Dalla-Riva MLC

The Committee divided on the motion:

Ayes:

Kim Wells MP
Richard Dalla-Riva MLC
Gordon Rich-Phillips MLC
Bill Sykes MP
Greg Barber MLC

Noes:

Janice Munt MP
Martin Pakula MLC
Robin Scott MP
Wade Noonan MP
Bob Stensholt MP (deliberative vote exercised)

Under Section 24 of the *Parliamentary Committees Act 2003*, the Chair used his casting vote as a negative on the amendment.

Motion negatived.

Motion: *That Chapter 3 be agreed to.*

Moved: Martin Pakula MLC Seconded: Robin Scott MP

Ayes:

Janice Munt MP
Martin Pakula MLC
Robin Scott MP
Greg Barber MLC
Wade Noonan MP

Noes:

Kim Wells MP
Richard Dalla-Riva MLC
Gordon Rich-Phillips MLC
Bill Sykes MP

Resolved.

Chapter 4: Probity of the NTS Tender

Motion: *That existing recommendation 12 be deleted and that a new insertion and recommendation be included after section 4.8.3, page 105 as follows:*

The Committee notes the subsequent appointment of Gary Thwaites as Chief Executive Officer of the Transport Ticketing Authority and notes the potential for the perception of a conflict of interest given the appointment of his spouse, Ms Josie Thwaites, as Probity Auditor and Probity Advisor to the transport ticketing tender.

Moved: Gordon Rich-Phillips MLC Seconded: Richard Dalla-Riva MLC

The Committee divided on the motion:

Ayes:

Kim Wells MP
Richard Dalla-Riva MLC
Gordon Rich-Phillips MLC
Bill Sykes MP

Noes:

Janice Munt MP
Martin Pakula MLC
Robin Scott MP
Wade Noonan MP
Greg Barber MLC

Motion negatived.

Motion: *That Chapter 4 be agreed to.*

Moved: Robin Scott MP Seconded: Martin Pakula MLC

Ayes:

Janice Munt MP

Martin Pakula MLC

Robin Scott MP

Greg Barber MLC

Wade Noonan MP

Noes:

Kim Wells MP

Richard Dalla-Riva MLC

Gordon Rich-Phillips MLC

Bill Sykes MP

Resolved.

PART C

Chapter 1: History of the Review and Follow-Up

Motion: *That Chapter 1 be agreed to.*

Moved: Kim Wells MP Seconded: Martin Pakula MLC

Resolved.

Chapter 2: An Overview of Residential Aged Care in Victoria

Motion: *That Chapter 2 be agreed to.*

Moved: Greg Barber MLC Seconded: Bill Sykes MP

Resolved.

Chapter 3: Management and Maintenance of Residential Aged Care Facilities

Motion: *That Chapter 3 be agreed to.*

Motion: Robin Scott MP Seconded: Richard Dalla-Riva MLC

Chapter 4: Condition of Victorian Public Sector Residential Aged Care Facilities

Motion: Martin Pakula MLC Seconded: Gordon Rich-Phillips MLC

Resolved.

Part D:

The Committee also agreed to a minor editorial amendment to page 180 on the Priority Two follow-up review of the Rail Gauge Standardisation, a chapter previously agreed to by the Committee at its meeting on 27 October 2008.

Report Adoption

Motion: *That the whole Report on the Review of the Findings and Recommendations of the Auditor General's Reports, 2006 and 2007 including all Appendices be adopted for tabling.*

Moved: Martin Pakula MLC Seconded: Greg Barber MLC

Ayes:

Janice Munt MP
Martin Pakula MLC
Robin Scott MP
Greg Barber MLC
Wade Noonan MP

Noes:

Kim Wells MP
Richard Dalla-Riva MLC
Gordon Rich-Phillips MLC
Bill Sykes MP

Resolved.