

PARLIAMENT OF VICTORIA

Integrity and Oversight Committee



**Report on the appointment
of a person to conduct the
independent performance audits
of the Independent Broad-based
Anti-corruption Commission and
the Victorian Inspectorate**

December 2021

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Sandringham



Mr Stuart Grimley
Western Victoria



Mr Dustin Halse
Ringwood



Ms Harriet Shing
Eastern Victoria



Mr Jackson Taylor
Bayswater



Hon Kim Wells
Rowville

About the Committee

The Integrity and Oversight Committee ('the Committee') is a joint investigatory committee constituted under the *Parliamentary Committees Act 2003* (Vic) ('*PC Act 2003* (Vic)').

The Committee is comprised of seven members of the Parliament of Victoria ('Parliament') drawn from both Houses of Parliament.

Functions

- The Committee is responsible for overseeing the Independent Broad-based Anti-corruption Commission (IBAC), the Office of the Victorian Information Commissioner (OVIC), the Victorian Inspectorate (VI) and the Victorian Ombudsman (VO).
- In accordance with s 7(1) of the *PC Act 2003* (Vic), the Committee's functions include:
 - monitoring and reviewing the performance of the duties and functions of IBAC and the VI
 - reporting to both Houses of Parliament on any matter connected with the performance of the duties and functions of IBAC and the VI
 - carrying out other functions conferred on the Committee by or under the *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) ('*IBAC Act 2011* (Vic)') and *Victorian Inspectorate Act 2011* (Vic) ('*VI Act 2011* (Vic)').

Secretariat

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Tracey Chung, Research Officer (until 30 August 2021)
Tom Hvala, Research Officer (from 27 September 2021)
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This report is available on the Committee's website.

Contents

Preliminaries

Committee membership	ii
About the Committee	iii
Recommendations	vii
Acronyms	viii

Appointment of a person to conduct the performance audits of the Independent Broad-based Anti-corruption Commission and the Victorian Inspectorate

	1
1.1 Legislative requirements	1
1.2 Evaluation process	2
1.3 Performance auditor's responsibilities	3
1.4 Time line and key deliverables	4
1.5 Recommended appointment	4
1.6 Recommendations	5

Appendices

A Final specification—independent performance audit of the Independent Broad-based Anti-corruption Commission 2022	7
B Final specification—independent performance audit of the Victorian Inspectorate 2021	11

Recommendations

RECOMMENDATION 1: That, in accordance with s 170(1) of the *Independent Broad-based Anti-corruption Commission Act 2011* (Vic), the Legislative Council and Legislative Assembly appoint Callida Pty Ltd ('Callida Consulting'):

- (a) to conduct the performance audit of the Independent Broad-based Anti-corruption Commission
- (b) in accordance with the Agreement for the provision of services for the performance audits of the Independent Broad-based Anti-corruption Commission and Victorian Inspectorate
- (c) at the following fixed-fee levels of remuneration:
 - \$66,000 (plus GST) upon Parliament's acceptance of Callida Consulting's audit plan, representing 20 per cent of the total fee
 - \$99,000 (plus GST) upon Parliament's acceptance of Callida Consulting's progress report, representing 30 per cent of the total fee
 - \$165,000 (plus GST) upon Parliament's acceptance of Callida Consulting's final draft report, representing 50 per cent of the total fee.

5

RECOMMENDATION 2: That, in accordance with s 90D(1) of the *Victorian Inspectorate Act 2011* (Vic), the Legislative Council and Legislative Assembly appoint Callida Pty Ltd ('Callida Consulting'):

- (a) to conduct the performance audit of the Victorian Inspectorate
- (b) in accordance with the Agreement for the provision of services for the performance audits of the Independent Broad-based Anti-corruption Commission and Victorian Inspectorate
- (c) at the following fixed-fee levels of remuneration:
 - \$21,600 (plus GST) upon Parliament's acceptance of Callida Consulting's audit plan, representing 20 per cent of the total fee
 - \$32,400 (plus GST) upon Parliament's acceptance of Callida Consulting's progress report, representing 30 per cent of the total fee
 - \$54,000 (plus GST) upon Parliament's acceptance of Callida Consulting's final draft report, representing 50 per cent of the total fee.

5

Acronyms

IBAC	Independent Broad-based Anti-corruption Commission
VI	Victorian Inspectorate

Appointment of a person to conduct the performance audits of the Independent Broad-based Anti-corruption Commission and the Victorian Inspectorate

1.1 Legislative requirements

The *IBAC Act 2011 (Vic)* and *VI Act 2011 (Vic)* require an independent performance auditor to be appointed at least once every four years to conduct an independent performance audit of IBAC and the VI.

The Committee is responsible under both Acts for recommending, to both Houses of Parliament, the appointment of a suitably qualified person to undertake the performance audits.

Sections 170 of the *IBAC Act 2011 (Vic)* and 90D of the *VI Act 2011 (Vic)* provide, in part, that:

- (1) A suitably qualified person may be appointed by resolution of the Legislative Council and Legislative Assembly, on the recommendation of the Committee, as an independent performance auditor of IBAC and the VI, other than the following—
 - (a) the Auditor-General
 - (b) any other Victorian Auditor-General's Office officer, within the meaning of s 3(1) of the *Audit Act 1994 (Vic)*
 - (c) a person engaged by the Auditor-General under s 7 of the *Audit Act 1994 (Vic)* to assist in the performance of a function under that Act
 - (d) a person to whom the Auditor-General has delegated a power or function under s 8 of the *Audit Act 1994 (Vic)*.
- (2) The independent performance auditor—
 - (a) is appointed on such terms and conditions and is entitled to such remuneration as are determined by the Committee
 - (b) in conducting the audit, must comply with directions as to the audit given by the Committee.
- (3) Remuneration payable under the appointment is paid out of the Consolidated Fund which is to the necessary extent appropriated accordingly.

- (4) The independent performance auditor must conduct a performance audit at least once every four years to determine whether IBAC and the VI are achieving their objectives effectively, economically and efficiently and in compliance with the *IBAC Act 2011 (Vic)* and *VI Act 2011 (Vic)*.
- (5) Subject to any directions given by the Committee, the independent performance auditor may exercise any powers of the Auditor-General under pt 7 of the *Audit Act 1994 (Vic)* to the extent necessary to conduct the audit as if a reference in that part to the Auditor-General includes a reference to the independent performance auditor.
- (6) The independent performance auditor may apply additional auditing and assurance standards applied by the Auditor-General under s 78(2) of the *Audit Act 1994 (Vic)* while undertaking the performance audits of IBAC and the VI.

Sections 170A(4) of the *IBAC Act 2011 (Vic)* and 90E(4) of the *VI Act 2011 (Vic)* provide that the independent performance auditor must transmit their report to each House of Parliament within seven sitting days of completing the report.

Under ss 170A(2)(a) of the *IBAC Act 2011 (Vic)* and 90E(2)(a) of the *VI Act 2011 (Vic)*, the independent performance auditor may include any information and recommendations they consider relevant.

1.2 Evaluation process

The independent performance audits are the first occasion IBAC and the VI have been audited in accordance with ss 170 of the *IBAC Act 2011 (Vic)* and 90D of the *VI Act 2011 (Vic)*. On 1 February 2021, the Committee resolved to establish an Evaluation Subcommittee ('the Subcommittee') to assist with the tender evaluation process.

The Committee Secretariat, in consultation with Parliament's Department of Parliamentary Services, drafted the requests for proposals, audit specifications and the proposed terms and conditions under which to appoint an independent performance auditor.

On 2 August 2021, the Committee resolved to conduct a select tender process to appoint an independent auditor to undertake the performance audits of IBAC and the VI in 2022.

The requests for proposals were released to the public on 6 August 2021 via Tenderlink and closed on 6 September 2021. The Subcommittee received 12 written proposals to undertake the performance audits, from six auditors. On 16 September 2021, the Subcommittee assessed the submissions in accordance with the evaluation criteria outlined in the requests for proposals. The Subcommittee conducted interviews with short-listed candidates. The Secretariat contacted candidates' referees, as appropriate, and made further enquiries on behalf of the Subcommittee.

1.3 Performance auditor's responsibilities

As specified in the requests for proposals, the independent performance auditor's statutory objective is to determine whether IBAC and the VI are achieving their objectives effectively, economically and efficiently and in compliance with the *IBAC Act 2011* (Vic) and *VI Act 2011* (Vic).

The auditor is to review IBAC's and the VI's performance during the four-year period ending 30 June 2021. The auditor is to make findings and recommendations with respect to the audit specifications (see Appendices A and B), taking into account the impact of the COVID-19 pandemic during the 2019/20 and 2020/21 reporting periods, in accordance with ss 170–170A of the *IBAC Act 2011* (Vic) and 90D–90E of the *VI Act 2011* (Vic).

The performance auditor's responsibilities, for the mutual benefit of Parliament and auditor, include (among other things):

- providing the services required by Parliament in the manner set out in the audit specifications
- not being involved in a position that may or does give rise to an actual, potential or perceived conflict of interest with their duty to independently perform the services in accordance with the *IBAC Act 2011* (Vic) and *VI Act 2011* (Vic)
- complying with ss 170(1) of the *IBAC Act 2011* (Vic) and 90D of the *VI Act 2011* (Vic), which require that a person appointed by Parliament as a performance auditor must not be engaged by the Auditor-General to assist the Auditor-General under s 7 of the *Audit Act 1994* (Vic), or a person who holds a delegation from the Auditor-General under s 8 of the *Audit Act 1994* (Vic), or a person engaged by IBAC or the VI to provide services¹
- undertaking the audits and providing evidence that they have been conducted in accordance with the relevant Australian auditing and assurance standards, including those applied by the Auditor-General under s 78(2) of the *Audit Act 1994* (Vic)
- demonstrating a commitment and ability to work in collaboration with Parliament over the term of any agreed contractual period to continuously seek improvements in value, efficiency and productivity in connection with providing the services
- evidencing a preparedness to work with Parliament to continually identify opportunities for improvement in the quality and level of service provided to Parliament.

¹ For certainty, the Subcommittee sought additional assurance from short-listed auditors that they would not engage in work with IBAC and the VI during the course of the audit in 2022.

1.4 Time line and key deliverables

The Committee has specified that the independent auditor is to provide the following project deliverables for the inaugural performance audits of IBAC and the VI:

- (a) specify the performance criteria and the qualitative and quantitative measures against which IBAC and the VI have been assessed
- (b) provide an independent assessment of IBAC's and the VI's performance, and set out the evidence which supports the audit's findings and recommendations
- (c) provide an overall opinion on whether IBAC and the VI have complied with the *IBAC Act 2011 (Vic)* and *VI Act 2011 (Vic)*
- (d) provide an overall opinion on whether IBAC and the VI are achieving their objectives effectively, economically and efficiently.

The Committee has mandated the following time line in respect of the performance audits and above project deliverables:

- (a) February 2022—
 - (i) Finalisation and commencement of performance audit contract
 - (ii) Performance auditor to develop and submit an audit plan for each audit for the Committee's approval
- (b) March 2022—Submission of a progress report for each audit
- (c) July 2022—Completion of a first draft of the audit report for each audit
- (d) August 2022—Finalisation and transmission of the IBAC and VI performance audit reports to each House of Parliament.

1.5 Recommended appointment

The Committee resolved on 6 December 2021 to recommend the appointment of Callida Pty Ltd ('Callida Consulting') to conduct the performance audits of IBAC and the VI.

The Committee considers that Callida Consulting has the requisite experience in auditing, and has demonstrated a strong understanding of audit approaches relevant to successfully undertaking the performance audits of IBAC and the VI. In accordance with the requests for proposals and evaluation criteria, the appointment of Callida Consulting also represents 'value for money'.

The Committee recommends that Callida Consulting be appointed for the purpose of undertaking the performance audits of IBAC and the VI at the fixed total fees tendered for each audit's project deliverables, as outlined in the recommendations below.

1.6 Recommendations

The Committee's recommendations are as follows:

RECOMMENDATION 1: That, in accordance with s 170(1) of the *Independent Broad-based Anti-corruption Commission Act 2011* (Vic), the Legislative Council and Legislative Assembly appoint Callida Pty Ltd ('Callida Consulting'):

- (a) to conduct the performance audit of the Independent Broad-based Anti-corruption Commission
- (b) in accordance with the Agreement for the provision of services for the performance audits of the Independent Broad-based Anti-corruption Commission and Victorian Inspectorate
- (c) at the following fixed-fee levels of remuneration:
 - \$66,000 (plus GST) upon Parliament's acceptance of Callida Consulting's audit plan, representing 20 per cent of the total fee
 - \$99,000 (plus GST) upon Parliament's acceptance of Callida Consulting's progress report, representing 30 per cent of the total fee
 - \$165,000 (plus GST) upon Parliament's acceptance of Callida Consulting's final draft report, representing 50 per cent of the total fee.

RECOMMENDATION 2: That, in accordance with s 90D(1) of the *Victorian Inspectorate Act 2011* (Vic), the Legislative Council and Legislative Assembly appoint Callida Pty Ltd ('Callida Consulting'):

- (a) to conduct the performance audit of the Victorian Inspectorate
- (b) in accordance with the Agreement for the provision of services for the performance audits of the Independent Broad-based Anti-corruption Commission and Victorian Inspectorate
- (c) at the following fixed-fee levels of remuneration:
 - \$21,600 (plus GST) upon Parliament's acceptance of Callida Consulting's audit plan, representing 20 per cent of the total fee
 - \$32,400 (plus GST) upon Parliament's acceptance of Callida Consulting's progress report, representing 30 per cent of the total fee
 - \$54,000 (plus GST) upon Parliament's acceptance of Callida Consulting's final draft report, representing 50 per cent of the total fee.

**Adopted by the Integrity and Oversight Committee
Parliament House, East Melbourne
6 December 2021**

Appendix A

**Final specification—
independent
performance audit of the
Independent Broad-based
Anti-corruption Commission 2022**

Final specification— independent performance audit of the Independent Broad-based Anti-corruption Commission 2022

Statutory objective: Determine whether the Independent Broad-based Anti-corruption Commission (IBAC) is achieving its objectives effectively, economically and efficiently and in compliance with the *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) ('*IBAC Act 2011* (Vic)').

Audit scope: In accordance with ss 170–170A of the *IBAC Act 2011* (Vic), the independent performance auditor is to review IBAC's performance during the four-year period ending on 30 June 2021 and make findings and recommendations with respect to the following specification, taking into account the impact of the COVID-19 pandemic during the 2019/20 and 2020/21 reporting periods.

Achieving the objectives of the *IBAC Act 2011* (Vic)

The extent to which IBAC effectively, economically and efficiently:

- identifies, investigates and exposes corrupt conduct and police personnel misconduct in the public sector (including through complaint-handling; ensuring police officers and protective services officers maintain the highest ethical and professional standards and have regard to human rights; conducting examinations; producing reports and making and monitoring recommendations; and making referrals)
- performs its functions under the *Public Interest Disclosures Act 2012* (Vic) ('*PID Act 2012* (Vic)')
- uses information received, intelligence collected and research undertaken in support of its investigations
- educates the public sector and community about the detrimental effects of corrupt conduct and police personnel misconduct on public administration and the community and the ways corrupt conduct and police personnel misconduct can be prevented
- improves the capacity of the public sector to prevent corrupt conduct and police personnel misconduct (including through the provision of advice, consultation and training as well as the production of guidelines and procedures)

in compliance with the *IBAC Act 2011* (Vic).

Sound governance and planning

- The extent to which IBAC complies with its reporting obligations to the Victorian Inspectorate under the *IBAC Act 2011* (Vic) and the *PID Act 2012* (Vic).
- The extent to which IBAC has effective structured processes for prioritising work against its statutory objectives, including the adequacy and currency of policies and procedures designed and implemented by IBAC to manage its work.
- The adequacy and appropriateness of governance and risk management frameworks used to support IBAC's work and staff, and to manage its engagement with others involved in IBAC operations (including members of the public, persons of interest and witnesses).

- The quality of IBAC’s strategic planning processes (including those related to IBAC’s annual plan) and the extent to which their outcomes are communicated and clearly understood by staff.
- The adequacy and appropriateness of mechanisms used to ensure the integrity and suitability of staff.

Genuine accountability and transparency

- The adequacy and appropriateness of processes used by IBAC to measure and manage the costs of performing its statutory functions.
- The adequacy and appropriateness of processes used by IBAC to identify scope for improvement, including how IBAC:
 - identifies savings
 - reduces costs
 - reduces waste.
- The adequacy of systems and processes used by IBAC to manage its work and improve its productivity.
- The extent to which IBAC has identified and implemented best practice initiatives from other agencies and jurisdictions.
- The extent to which IBAC reports to and informs Parliament and the wider community about its performance.
- The extent to which IBAC attains and sustains public confidence in the agency.

Strong and healthy workforce and performance culture

- The promotion and existence of a strong integrity culture at IBAC.
- The adequacy of measures used by IBAC to assess and maintain staff motivation, wellbeing and resilience, including those relating to occupational health and safety.
- The adequacy of channels of communication between staff and management to discuss and report staff concerns.
- The adequacy of policies, systems and procedures for handling complaints and public interest disclosures by staff as well as other staff grievances.
- The adequacy of processes and costs associated with the recruitment and retention of staff, including whether IBAC:
 - implements succession planning
 - has appropriate strategies in place to manage staff turnover.
- The adequacy and appropriateness of programs aimed at meeting staff professional development needs.
- The appropriateness of criteria used to engage and manage IBAC’s contractors, as the term ‘contractor’ is defined in the Victorian Public Sector Commission’s *Guidance for managers engaging contractors and consultants*.

Appendix B
**Final specification—Independent
performance audit of the Victorian
Inspectorate 2021**

Final specification—Independent performance audit of the Victorian Inspectorate 2021

Statutory objective: Determine whether the Victorian Inspectorate (VI) is achieving its objectives effectively, economically and efficiently and in compliance with the *Victorian Inspectorate Act 2011* (Vic) (*VI Act 2011* (Vic)).

Audit scope: In accordance with ss 90D–90E of the *VI Act 2011* (Vic), the independent performance auditor is to review the VI's performance during the four-year period ending on 30 June 2021 and make findings and recommendations with respect to the following specification, taking into account the impact of the COVID-19 pandemic during the 2019/20 and 2020/21 reporting periods.

Achieving the objectives of the *VI Act 2011* (Vic)

- The extent to which the VI effectively, economically and efficiently performs its functions under the *Public Interest Disclosures Act 2012* (Vic) (*PID Act 2012* (Vic)) (including the investigation of public interest complaints).

Independent Broad-based Anti-corruption Commission

- The extent to which the VI effectively, economically and efficiently provides for the independent oversight of the Independent Broad-based Anti-corruption Commission (IBAC) and IBAC personnel by:
 - enhancing the compliance of IBAC and IBAC personnel with the *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) (*IBAC Act 2011* (Vic)) and other laws
 - monitoring the exercise of coercive powers by IBAC and IBAC personnel
 - improving the capacity of IBAC and IBAC personnel to perform their duties and functions and exercise their powers
 - overseeing the performance by IBAC of its functions under the *PID Act 2012* (Vic)
 - assessing the effectiveness and appropriateness of IBAC's policies and procedures which relate to the legality and propriety of IBAC's activities
 - receiving complaints in accordance with the *VI Act 2011* (Vic) about the conduct of IBAC and IBAC personnel
 - investigating and assessing the conduct of IBAC and IBAC personnel in the performance or purported performance or exercise of their duties, functions and powers
 - monitoring the interaction between IBAC and other integrity bodies to ensure compliance with relevant laws
 - reporting on, and making recommendations as a result of, the performance of its functions relating to IBAC

in compliance with the *VI Act 2011* (Vic).

Office of the Victorian Information Commissioner

- The extent to which the VI effectively, economically and efficiently provides for the independent oversight of Office of the Victorian Information Commissioner (OVIC) officers by:

- monitoring the exercise of coercive powers by OVIC officers and compliance by OVIC officers with procedural fairness requirements in the:
 - exercise, or purported exercise, of coercive powers under the *Freedom of Information Act 1982 (Vic)* ('*FOI Act 1982 (Vic)*') and the *Privacy and Data Protection Act 2014 (Vic)* ('*PDP Act 2014 (Vic)*')
 - conduct of investigations under pt VIB of the *FOI Act 1982 (Vic)*
 - making of recommendations under s 61L of the *FOI Act 1982 (Vic)*
 - making of investigation reports under s 61Q of the *FOI Act 1982 (Vic)*
 - making of compliance notices under pt 3 of the *PDP Act 2014 (Vic)*
- receiving complaints about the conduct of OVIC officers in accordance with the *VI Act 2011 (Vic)*
- investigating and assessing the conduct of OVIC officers in accordance with the *VI Act 2011 (Vic)*
- reporting on, and making recommendations as a result of, the performance of its functions relating to OVIC

in compliance with the *VI Act 2011 (Vic)*.

Victorian Ombudsman

- The extent to which the VI effectively, economically and efficiently provides for the independent oversight of Victorian Ombudsman (VO) officers by:
 - monitoring the exercise of coercive powers by Ombudsman officers
 - monitoring compliance by Ombudsman officers with procedural fairness requirements in the performance of functions under the *Ombudsman Act 1973 (Vic)* or any other Act
 - receiving complaints about the conduct of Ombudsman officers in accordance with the *VI Act 2011 (Vic)*
 - investigating and assessing the conduct of Ombudsman officers in accordance with the *VI Act 2011 (Vic)*
 - reporting on, and making recommendations as a result of, the performance of its functions relating to the VO

in compliance with the *VI Act 2011 (Vic)*.

Sound governance and planning

- The extent to which the VI internally promotes and implements the purposes of the *PID Act 2012 (Vic)*.
- The extent to which the VI has effective structured processes for prioritising work against its statutory objectives, including the adequacy and currency of policies and procedures designed and implemented by the VI to manage its work.
- The adequacy and appropriateness of governance and risk-management frameworks used to support the VI's work and staff, and to manage its engagement with others involved in the VI's operations (including members of the public, persons of interest and witnesses).
- The quality of the VI's strategic planning processes (including those related to the VI's annual plan) and the extent to which their outcomes are communicated and clearly understood by staff.
- The adequacy and appropriateness of mechanisms used to ensure the integrity and suitability of VI staff.

Genuine accountability and transparency

- The adequacy and appropriateness of processes used by the VI to measure and manage the costs of performing its statutory functions.
- The adequacy and appropriateness of processes used by the VI to identify scope for improvement, including how it:
 - identifies savings
 - reduces costs
 - reduces waste.
- The adequacy of systems and processes used by the VI to manage its work and improve its productivity.
- The extent to which the VI has identified and implemented best practice initiatives from other agencies and jurisdictions.
- The extent to which the VI educates the public sector and community about its functions.
- The extent to which the VI reports to and informs Parliament and the wider community about its performance.
- The extent to which the VI attains and sustains public confidence in the agency.

Strong and healthy workforce and performance culture

- The promotion and existence of a strong integrity culture at the VI.
- The adequacy of measures used by the VI to assess and maintain staff motivation, wellbeing and resilience, including those relating to occupational health and safety.
- The adequacy of channels of communication between staff and management to discuss and report staff concerns.
- The adequacy of policies, systems and procedures for handling complaints and public interest disclosures by staff as well as other staff grievances.
- The adequacy of processes and costs associated with the recruitment and retention of staff, including whether the VI:
 - implements succession planning
 - has appropriate strategies in place to manage staff turnover.
- The adequacy and appropriateness of programs aimed at meeting staff professional development needs.
- The appropriateness of criteria used to engage and manage the VI's contractors, as the term 'contractor' is defined in the Victorian Public Sector Commission's *Guidance for managers engaging contractors and consultants*.

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