



THIRTY-EIGHTH PARLIAMENT

REPORT 32

**STANDING COMMITTEE ON ESTIMATES AND
FINANCIAL OPERATIONS**

REPORT ON THE

**BUDGET OF THE OFFICE OF THE AUDITOR
GENERAL**

AND

**REVIEW OF AUDITOR GENERAL'S AUDIT RESULTS
REPORT - ANNUAL 2009/10 ASSURANCE AUDITS**

Presented by Hon Giz Watson MLC (Chair)

August 2011

STANDING COMMITTEE ON ESTIMATES AND FINANCIAL OPERATIONS

Date first appointed:

30 June 2005

Terms of Reference:

The following is an extract from Schedule 1 of the Legislative Council Standing Orders:

“2. Standing Committee on Estimates and Financial Operations

2.1 *An Estimates and Financial Operations Committee* is established.

2.2 The Committee consists of 5 Members, 3 of whom shall be non-government Members.

2.3 The functions of the Committee are to consider and report on -

- (a) the estimates of expenditure laid before the Council each year;
- (b) any matter relating to the financial administration of the State;
- (c) any bill or other matter relating to the foregoing functions referred by the House;
- (d) to consult regularly with the Auditor General and any person holding an office of a like character.”

Members as at the time of this inquiry:

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Hon Ljiljanna Ravlich MLC

Hon Philip Gardiner MLC (Deputy Chair)

Hon Ken Travers MLC

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Government Response

This Report is subject to Standing Order 337:

After tabling, the Clerk shall send a copy of a report recommending action by, or seeking a response from, the Government to the responsible Minister. The Leader of the Government or the Minister (if a Member of the Council) shall report the Government's response within 4 months.

The four-month period commences on the date of tabling.

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**APPENDIX 1 MOTION TO ESTABLISH THE JOINT STANDING COMMITTEE ON
AUDIT29**

EXECUTIVE SUMMARY, FINDINGS AND RECOMMENDATIONS

EXECUTIVE SUMMARY

- 1 The Committee took evidence from the Auditor General on 13 December 2010 regarding his proposal for the Office of the Auditor General's 2011/12 Budget allocation. The hearing also canvassed matters arising from the Auditor General's *Report 10 of 2010, Audit Results Report - Annual 2009-10 Assurance Audits* as they were directly relevant to Annual Report hearings the Committee held with a number of agencies earlier in December 2010.

Budget of the Office of the Auditor General

- 2 The Committee was pleased to note the support of the Treasurer and the Department of Treasury and Finance to the request from the Office of the Auditor General (OAG) which should see the performance audit budget of the OAG increase by \$250 000 in 2011/12 and by another \$250 000 in 2012/13.
- 3 This Committee supports the provision of additional funding for performance audits which would enable the OAG's performance audit effort to increase from 25 percent to approximately 30 percent of total audit effort.

Statements of Corporate Intent

- 4 The Committee was concerned about the evidence given by witnesses regarding Statements of Corporate Intent. The Auditor General advised the Committee of continuing non-compliance with statutory obligations to table Statements of Corporate Intent in Parliament in a timely manner by the relevant Ministers.
- 5 The Committee briefly reviewed the applicable provisions of the water and power utilities, port authorities and Racing and Wagering Western Australia, which indicated that there was similarity in the structure of the provisions and the way in which they operate.
- 6 The current process for the majority of Statements of Corporate Intent requires the portfolio Minister to agree to the document after receiving the Treasurer's concurrence. However, if the Treasurer does not give his concurrence, then the draft Statement of Corporate Intent (SCI) becomes the operative document until the portfolio Minister's agreement to the SCI is given. This is a consistent feature of all the legislation reviewed by the Committee.

- 7 The effect of the failure of portfolio Ministers to ensure timely compliance with this legislative requirement is to veil the operations of agencies from Parliament's scrutiny.

Key Performance Indicators (KPIs)

- 8 The Committee was advised by the Auditor General of issues with several agencies KPIs.
- 9 The Committee heard evidence from one agency regarding its non-compliance with the requirement for its Chief Executive Officer to report KPIs in its annual report as it may compromise the agency's commercial interests.
- 10 The Committee is concerned that some agencies are not complying with their obligations relating to KPIs under the *Financial Management Act 2006*.

Audit Results Report - Annual 2009/10 Assurance Audits

- 11 The Auditor General advised the Committee that, in general, there was no trend or decay in the system of financial reporting by agencies. However, the Auditor General pointed out there were several areas of concern.

Improvements in the Timeliness of Financial Reporting

- 11.1 The Committee was pleased to hear the Auditor General's evidence that there had been a broad qualitative improvement in the timeliness of completing draft accounts for his consideration.

Notable increase in non-compliance with Treasurer's Instructions

- 11.2 The Auditor General indicated there were some issues of significance that required attention. In particular, the Committee was concerned by the evidence of a "notable increase" in the number of non-compliance with Treasurer's Instructions' issues, mainly in the areas of governance and revenue.

Doubling in significant deficiencies

- 11.3 The Committee was concerned to note the Auditor General's observation that there had been a doubling in the number of significant deficiencies in financial management controls reported to agencies over the 2009/10 financial year from the previous year. In addition, the Auditor General noted a delay in remedial action being taken by agencies where significant deficiencies had been reported to them.

Recurring Audit Qualifications - Metropolitan Health Service

- 11.4 The Metropolitan Health Service of the Department of Health had, for the second consecutive year, received a qualified audit opinion relating to its financial controls. This was of concern given the large size of the Metropolitan Health Service's budget and asset base.

FINDINGS AND RECOMMENDATIONS

- 12 Findings and Recommendations are grouped as they appear in the text at the page number indicated:

Page 1

Recommendation 1: The Committee recommends that establishment of the Joint Standing Committee of Audit be resolved by the House at its earliest opportunity.

Page 9

Recommendation 2: The Committee recommends that the Premier instructs Ministers to ensure that their agencies give a high priority to matters raised by the Auditor General and respond promptly.

Page 23

Finding 1: The Committee finds that the current legislative arrangements for gaining the Treasurer's concurrence with either an SDP or an SCI has the effect of permitting an agency to operate in accordance with objectives hidden from public view.

Page 23

Recommendation 3: The Committee recommends that in the event the portfolio Minister does not table an SDP and an SCI in accordance with the legislation due to the Treasurer not giving his concurrence, then:

- the Minister should table the most recent draft of the SDP and SCI that the agency will operate under from 1 July under the deeming provisions;
- the Minister should provide an explanation to Parliament for the delay by 1 July being the start of the next financial year; and
- the matter should be taken to Cabinet for resolution.

CHAPTER 1

BUDGET OF THE OFFICE OF THE AUDITOR GENERAL

BACKGROUND

- 1.1 The *Auditor General Act 2006* provides that a Joint Standing Committee on Audit (**Joint Committee**) be established comprising of an equal number of members appointed by each House.¹
- 1.2 The Standing Committee on Estimates and Financial Operations Committee (**Committee**) expresses its concern that the Joint Committee has yet to be established. The Committee notes that the Leader of the House tabled a motion on 24 September 2009 that the Joint Committee be established. A copy of the motion is attached at Appendix 1.
- 1.3 One of the functions of the proposed Joint Committee is to make recommendations to the Treasurer in relation to the budget of the Office of the Auditor General (**OAG**) for a financial year.²
- 1.4 In the absence of the Joint Committee and consistent with its terms of reference, the Committee resolved to consult with the Auditor General with respect to the budget for the OAG.
- 1.5 The Committee also took the opportunity to enquire about the Auditor General's Report 10 of 2010, *Audit Results Report - Annual 2009/10 Assurance Audits (Assurance Audits Report)*.

Committee Comment

- 1.6 At the time of finalising this report the motion has still not been brought on for debate in the Legislative Council.

Recommendation 1: The Committee recommends that establishment of the Joint Standing Committee of Audit be resolved by the House at its earliest opportunity.

AUDITOR GENERAL HEARING

- 1.7 Mr Colin Murphy, the Auditor General, and Mr Donald Cunninghame, the Assistant Auditor General, appeared before the Committee at a public hearing on 13 December

¹ Section 43 *Auditor General Act 2006*.

² Section 44(1) *Auditor General Act 2006*.

2010 to discuss the OAG's budget, the Assurance Audits Report and any other related matters the Committee thought fit.

2011/12 BUDGET FOR THE OFFICE OF THE AUDITOR GENERAL

- 1.8 The Committee examined the 2010/11 budget of the OAG in March 2010 and in its resulting report noted:

*the need for an increase in the performance audit capacity of the OAG to ensure that it maintains a reasonable level of scrutiny into the efficient and effective expenditure of public monies.*³

- 1.9 The Committee recommended that “*the Office of the Auditor General receive an increase in its appropriation of at least \$250,000 in the 2010-11 budget*”⁴ (as part of a strategy of phasing in increased funding to reach an appropriate level of performance audit activity.)

- 1.10 At the hearing on 13 December 2010, the Auditor General advised the Committee that:

*as a direct result of the support that it has provided, there has been an increase in the resources made available to my office and budget adjustments have been made really dealing with my concerns about the need to increase the level of performance of our audit activity within the office.*⁵

- 1.11 The Auditor General provided the Committee with a briefing paper at the December hearing which stated, with respect to its 2011/12 budget, that:

The Office has received the support of the Treasurer and the Department of Treasury and Finance to a request for an increased appropriation to fund additional positions and increase capacity in our performance audit function.

*An additional \$250,000 will be provided in our appropriation from 2011/12 taking the total appropriation to \$5.68m (\$4.96m in 2010/11). A further increase will follow in 2012/13. The total budget of the Office in 2011/12 will be \$19.85m (\$19.2m in 2010/11).*⁶

³ Western Australia, Legislative Council, Standing Committee on Estimates and Financial Operations, Report 25, *Budget on the Office of the Auditor General*, 1 April 2010, p4, para 1.19.

⁴ *Ibid.* p4.

⁵ Mr Colin Murphy, Auditor General, Office of the Auditor General, *Transcript of Evidence*, 13 December 2010, p2.

⁶ Auditor General's Briefing Paper for the Legislative Council Standing Committee on Estimates and Financial Operations, 13 December 2010, p2.

PERFORMANCE AUDIT ACTIVITY

- 1.12 Performance audits are designed to:

*evaluate whether an agency is effectively meeting its objectives and using its resources economically and efficiently to deliver desired outcomes. Audits can cover all or part of the activities of an agency or agencies. The audits seek to improve resource management and add value to an agency through recommendations on improving operations and procedures.*⁷

- 1.13 The Auditor General advised the Committee at the December hearing that:

*The concern that I raised last year was the fact that performance audits, although they are highly valued by Parliament, form only 25 per cent of our audit effort, and I felt that it was important to ramp that up at least to something like 30 per cent. With the additional \$250 000 that has been applied for next year and a similar increase for the following year, we will be at 29 per cent of our audit effort going to performance audit, and I hope to see that maintained or increased into the future.*⁸

Committee Comment

- 1.14 The Committee is pleased to note the Government's intention to provide additional funding to the OAG in the 2011/12 and 2012/13 financial years for performance audits.
- 1.15 The Committee believes that this additional funding is appropriate and will maintain the audit effort going to performance audits at an appropriate level.

⁷ Office of the Auditor General for Western Australia, *Audit Practice Statement*, Office of the Auditor General, Perth, August 2010, p7.

⁸ Mr Colin Murphy, Auditor General, Office of the Auditor General, *Transcript of Evidence*, 13 December 2010, p2.

CHAPTER 2

AUDITOR GENERAL'S AUDIT RESULTS REPORT - ANNUAL 2009/10 ASSURANCE AUDITS

BACKGROUND

- 2.1 In accordance with subsection 15(3) of the *Auditor General Act 2006*, the Auditor General undertakes an annual assurance audit of agencies in order to provide an opinion with respect to the financial statements of every agency.
- 2.2 Under section 24 of the *Auditor General Act 2006*, the Auditor General is, at least once in each year, required to prepare, sign and submit a report to both Houses of Parliament on matters arising out of the performance of the Auditor General's functions that are, in the opinion of the Auditor General, of such significance as to require reporting.
- 2.3 The Auditor General summarised the findings of his assurance audits in the Assurance Audits Report to meet the OAG's section 24 reporting obligation. This report was tabled on 10 November 2010.⁹
- 2.4 The Committee decided to hear evidence regarding the findings contained in the Assurance Audits Report as it related to agency annual report hearings it had undertaken earlier in December 2010.

GENERAL ASSESSMENT

- 2.5 The Committee asked the Auditor General at the public hearing on 13 December 2010 whether "*there was any generic decay in the system of financial reporting within the agencies?*"¹⁰
- 2.6 The Auditor General advised the Committee that:

*No, there are some positive signs emerging; there are some worrying signs as well, but I can assure the committee that there is no trend of decay or things going in the wrong direction.*¹¹

⁹ Office of the Auditor General, *Audit Results Report Annual 2009-10 Assurance Audits*, Auditor General, Perth, November 2010.

¹⁰ Hon Philip Gardiner MLC, *Transcript of Evidence*, 13 December 2010, p1.

¹¹ Mr Colin Murphy, Auditor General, Office of the Auditor General, *Transcript of Evidence*, 13 December 2010, p1.

KEY ISSUES IDENTIFIED IN THE ASSURANCE AUDITS REPORT**Quality of Financial Reporting**

2.7 The Committee noted the Auditor General's comments that:

There has been a general improvement in the past two years in the quality of financial accounting staff within agencies, but no notable change in the quality of systems. A similar percentage of agencies (43 percent) were rated as Best Practice for financial reporting in 2009 and 2010 (66 agencies in total, including 44 from the prior year).

...

We have found the quality of financial reporting in agencies is generally related to the skill and commitment of staff rather than systems.

...

Sixty-four percent of agencies improved their year end processes to be audit ready at an earlier date than last year¹²

2.8 The Auditor General commented with respect to the timeliness of agency accounts preparation and submission to the Auditor General thus:

Being ready for audit as soon as possible after year end enables agencies to release resources for other important financial management tasks, thereby improving the overall efficiency and financial management of the public sector.¹³

Compliance with Treasurer's Instructions

2.9 The Committee was advised that "*there was a notable increase in the number of compliance and control issues in two areas; Corporate Governance and Revenue.*"¹⁴

2.10 Corporate Governance related issues identified by the Auditor General rose from 36 to 50 (an increase of 38 percent) and were stated as "*inadequate internal audit functions, accounting manuals, signing of board minutes and risk management plans.*"¹⁵

¹² Auditor General's Briefing Paper for the Legislative Council Standing Committee on Estimates and Financial Operations, 13 December 2010, p4.

¹³ Office of the Auditor General, *Audit Results Report Annual 2009-10 Assurance Audits*, Auditor General, Perth, November 2010, p30.

¹⁴ Office of the Auditor General, *Audit Results Report Annual 2009-10 Assurance Audits*, Auditor General, Perth, November 2010. p2.

- 2.11 Revenue-related issues rose from 30 to 62 (an increase of 106 percent) covering matters such as *“inadequate reconciliations, segregation of duties and debt management and recovery.”*¹⁶

Information Security

- 2.12 The Auditor General advised that:

*In 2009-10 we identified 280 deficiencies in total (a similar number to 2008-09). There has been some improvement in the speed that agencies clear-up information systems issues but the situation still remains unacceptable. Twenty seven percent of the deficiencies in 2009-10 were weaknesses that remained from the prior year.*¹⁷

- 2.13 The OAG's briefing paper to the Committee noted that the *“level of expertise [regarding information technology] within agencies is improving but is still lacking in many agencies. The use of contractors to provide necessary expertise is a trend that appears to be growing across government.”*¹⁸

- 2.14 The Committee is concerned about this trend and looks forward to an improvement in this area in the future.

Doubling in the number of significant deficiencies

- 2.15 The Committee noted the comments of the Auditor General that:

*Our audits identified 366 financial management control deficiencies at 78 of the 146 agencies that are audited on controls. This was a similar result to the two previous years, although 19 percent were rated as significant, meaning they require significant attention. The number of significant deficiencies had doubled in the last two years.*¹⁹

- 2.16 A significant deficiency is defined in the Assurance Audits Report as *“potentially leading to a significant risk to the agency if not addressed promptly”*²⁰

- 2.17 In addition, the Committee was advised by the Auditor General that:

¹⁵ Office of the Auditor General, *Audit Results Report Annual 2009-10 Assurance Audits*, Auditor General, Perth, November 2010. p2.

¹⁶ *Ibid.* p2.

¹⁷ *Ibid.* p4.

¹⁸ *Ibid.* p5.

¹⁹ *Ibid.* p2.

²⁰ Office of the Auditor General, *Audit Results Report Annual 2009-10 Assurance Audits*, Auditor General, Perth, November 2010, p26.

Probably the areas that we are concerned about that are not so positive relate to addressing issues that we have raised—that is, rectifying matters that have appeared in management letters to agencies. Also, we rate the number of control issues that we raised to give the agency some notification as to whether they are of significant, moderate or minor importance, so that the agencies can determine how much effort they should apply to those issues and how quickly. The number of significant issues has gone up significantly. There is some indication that these areas are not getting the priority that they need. I would be at a loss to give the committee an explanation as to why that might be the case, but it certainly is an area of focus for us now to see if we cannot give a bit more attention to those matters that we have raised, and particularly those that are considered significant control issues.²¹

2.18 On the other hand, the Committee was also advised that:

although there are issues to do with some of the controls we have identified here, by and large, when we raise serious issues and report them, agencies are very, very quick to address them, sometimes before we have even reported them to Parliament.²²

2.19 The OAG's briefing paper to the Committee explained this inconsistency as follows:

In general, more timely actioning of issues is needed. Agencies remedy some deficiencies very quickly (for example, key reconciliations), as they were essential for a clear audit opinion on the financial statements. Other deficiencies that did not directly impact the information in the financial statements (such as data security, segregation of duties or review of masterfiles) were not remedied by the time we had completed the audits and will be followed up next year.²³

Committee Comment

2.20 The Committee is concerned that there has been a doubling of significant financial control deficiencies over the past two years along with a “notable” deterioration in compliance with the Treasurer's Instructions. This has been matched by an

²¹ Mr Colin Murphy, Auditor General, Office of the Auditor General, *Transcript of Evidence*, 13 December 2010, p4.

²² *ibid*, p4.

²³ Auditor General's Briefing Paper for the Legislative Council Standing Committee on Estimates and Financial Operations, 13 December 2010, p2.

observation by the Auditor General that some reported deficiencies are not being rectified in a timely manner.

- 2.21 These observations indicate that agencies are paying insufficient attention to the ongoing development of effective and efficient financial management systems.

Recommendation 2: The Committee recommends that the Premier instructs Ministers to ensure that their agencies give a high priority to matters raised by the Auditor General and respond promptly.

QUALIFIED AUDIT OPINIONS

Metropolitan Health Service, Department of Health 2009/10 Annual Report - Financial Statement Audit Qualification

- 2.22 The Auditor General issued a qualified audit opinion to the Metropolitan Health Service of the Department of Health on their financial statements and controls on the basis that “*not all revenue from medical practitioners’ treatment of private and overseas patients was invoiced and brought to account.*”²⁴

- 2.23 The Auditor General in his briefing paper further stated that:

*WA Health considers a dedicated billing system for the collection of medical practitioner treatment charges is required to address this weakness. A tender for a new billing system has been issued and a contract is expected to be let by the end of February 2011. In the meantime, recovery action of prior period unbilled revenue continues although WA Health has advised that the amount recovered cannot be readily identified at the moment. We have reiterated with them the need to maintain comprehensive records of fees recovered.*²⁵

- 2.24 The Committee took evidence from the Department of Health on 6 December 2010 with respect to its 2009/10 Annual Report. The matter of the qualified audit opinion was raised with Mr Kim Snowball, the Director General of the Department of Health who responded as follows:

The only people who can bill Medicare are medical practitioners. Hospitals cannot do it directly; they can only do it through the medical practitioners. In 2007, in the EBA for medical practitioners there was a focus on what is called “arrangement A”. Arrangement A was set in place whereby in return for the revenue collected by those

²⁴ *Ibid*, p2.

²⁵ *Ibid*, p2.

*doctors in terms of private patients, the department would pay them or the health service would pay them a fixed sum. So, it is basically, "We will pay you X and an allowance so you do not have to go and bill and all the rest of it, we will bill for you but you still have got to raise the invoice."*²⁶

2.25 The Director General further advised the Committee that:

*The issue in terms of the Auditor General's assessment was, "What is the amount that should be billed?" What amount should you have recovered legally and lawfully from all of those medical practitioners? For us to establish that, and our processes to establish that, we could say every bill that is raised we collect revenue for. So, the aim was, in fact, that we do collect all the revenue that is entitled to us, but the question then was: do the medical practitioners actually put out bills for every patient they could legally bill? So, the qualification was on the basis of, "You cannot tell us if you have collected all the revenue to which you are entitled." The processes we put in place link to private patients, particularly through eConsult system, which is in Royal Perth, where we can, hand on heart, say where there is raised, and we legitimately raise everything, that is not in place in every hospital, so the process that we are going through now is to action that. We identified this issue back in late 2009, so the revenue is actually not yet lost, because you can recover the revenue retrospectively. Also, our argument with the Auditor General, yes that is the case at 30 June 2010, but the revenue is not lost to us until such time as we declare that it cannot be recovered. First of all, our systems are in place to redress it. We have also confirmed that we have had the right business processes in place to recover those funds and we are encouraging, obviously, the medical practitioners to make sure all of them are recovering the revenue to which they are entitled, which is not only a system, but also a tap on the shoulder to say, "You have not raised bills for the last month, what is happening?" Those are the things that we have got in place, but the Auditor General simply could not satisfy himself that all the revenue that could be recovered was recovered.*²⁷

²⁶ Mr Kim Snowball, Director General, Department of Health, *Transcript of Evidence*, 6 December 2010, p31.

²⁷ *Ibid*, p31.

Metropolitan Health Service, Department of Health 2008/09 Financial Statement Audit Qualification

- 2.26 The Committee also considered the Standing Committee on Public Accounts hearing with the then Director General of Health on 2 December 2009. This hearing was held to “*follow up the Auditor General’s Report No. 13, Audit Results Report 2008–09 Assurance Audits in which a qualified opinion was entered against the Metropolitan Public Hospitals for accessing \$24.9 million of restricted funds to meet operational needs.*”²⁸
- 2.27 The Auditor General qualified the accounts of the Metropolitan Health Service for the 2008/09 year on the grounds that:

*the Metropolitan Public Hospitals did not have sufficient funds to meet operational needs and drew on \$24.9 million of restricted funds to meet cashflow requirements. Controls over these restricted funds, which include specific purpose grants money, were inadequate for ensuring that they were spent only for their approved purpose.*²⁹

Committee Comment

- 2.28 The Committee notes the Director General of Health’s advice and believes that, based upon his explanation, the control deficiencies identified by the Auditor General have been rectified and any sums due to the Department of Health will be promptly collected. The Committee will continue to monitor this situation.
- 2.29 The Committee is concerned that the financial statements of the Metropolitan Health Service have been qualified for two consecutive years with respect to controls. This indicates that there are ongoing financial management weaknesses within an agency that has a Net Cost of Services in 2009/10 of \$2.992 billion³⁰ and Net Assets as at 30 June 2010 of \$2.776 billion.³¹
- 2.30 The Committee notes the Director General’s comments that “*the health system in all its forms - public and private - delivers for Western Australians longevity that is the second best in the world*”.³² While the Committee understands that the primary

²⁸ Western Australia, Legislative Assembly, Public Accounts Committee, Report 6, *Public Hearing with the Director General of Health on 2 December 2009*, 11 March 2010, p vii.

²⁹ Metropolitan Health Service, *Annual Report 2008/09*, Government of Western Australia, Perth, 17 September 2009, p30.

³⁰ *Ibid*, p127.

³¹ *Ibid*. p128.

³² Mr Kim Snowball, Director General, Department of Health, *Transcript of Evidence*, 6 December 2010, p32.

objective of the Metropolitan Health Service is not to achieve a financial outcome, Western Australian taxpayers have a right to expect that agencies entrusted with their funds will have suitable and appropriate internal control frameworks for the management of their finances.

CHAPTER 3

COMPLIANCE ISSUES WITH STATEMENTS OF CORPORATE INTENT

Background

3.1 The Auditor General described a Statement of Corporate Intent (SCI) as:

*a form of annual agreement between government and those agencies which operate at arms length from government. Agencies are required by their Act or regulations to draft the annual SCI for agreement with the Minister and the Treasurer. Once agreed, the Minister is to table the SCI in Parliament within 14 days. SCIs are therefore an important governance and accountability mechanism.*³³

3.2 SCIs are documents prepared annually by agencies that contain a wide variety of information, which may include:

- an outline of their objectives;
- an outline of their main undertakings;
- an outline of the nature and scope of any functions proposed to be performed through the year;
- their performance targets;
- details of any community service obligations;
- accounting policies;
- dividend policies;
- details regarding borrowings; and
- the type of information to be given to the Minister.³⁴

³³ Office of the Auditor General, *Audit Results Report Annual 2009-10 Assurance Audits*, Auditor General, Perth, November 2010, p13.

³⁴ For more specific examples of information contained in an SCI see s52 Water Corporations Act 1995, s77 Racing and Wagering Western Australia Act 2003, s99 Electricity Corporations Act 2005, s60 Port Authorities Act 1999

- 3.3 The nature, breadth and scope of the information contained in an SCI means that it is a publicly-available key document in assessing the operational and financial performance of an agency.
- 3.4 The Committee has been concerned for some time about the timely production of these documents and resolved to explore aspects of their development and completion after its hearing with the Auditor General in December 2010.

Development of a Statement of Corporate Intent

- 3.5 The Committee reviewed the legislation supporting the development of an SCI for Ports, Utilities and Racing and Wagering Western Australia. The Committee found that there was a generally consistent approach across the chosen legislation³⁵ that could be summarised as:
- the annual development of a Strategic Development Plan (SDP) for an agency which outlines their five year economic, financial and operational targets and how they will be achieved. The SDP was generally required to be submitted to the portfolio Minister at least two to three months (unless specified otherwise) before the start of the next financial year;
 - agreement of the SDP with the Minister after the Treasurer has provided his concurrence;
 - the agency then developing an annual SCI covering a single financial year, consistent with the SDP. The SCI was generally required to be submitted to the portfolio Minister at least two to three months (or another date as specified by the Minister) before the start of the next financial year;
 - agreement to the SCI by the portfolio Minister after the Treasurer has provided his concurrence;
 - tabling of the SCI in Parliament by the portfolio Minister.
- 3.6 The diagram over the page provides a general overview of the SDP and SCI development and approval process. While individual agencies processes may vary, they broadly follow the process in the diagram (Figure 1).

³⁵ *Water Corporations Act 1995, Racing and Wagering Western Australian Act 2003, Electricity Corporations Act 2005, Port Authorities Act 1999.*

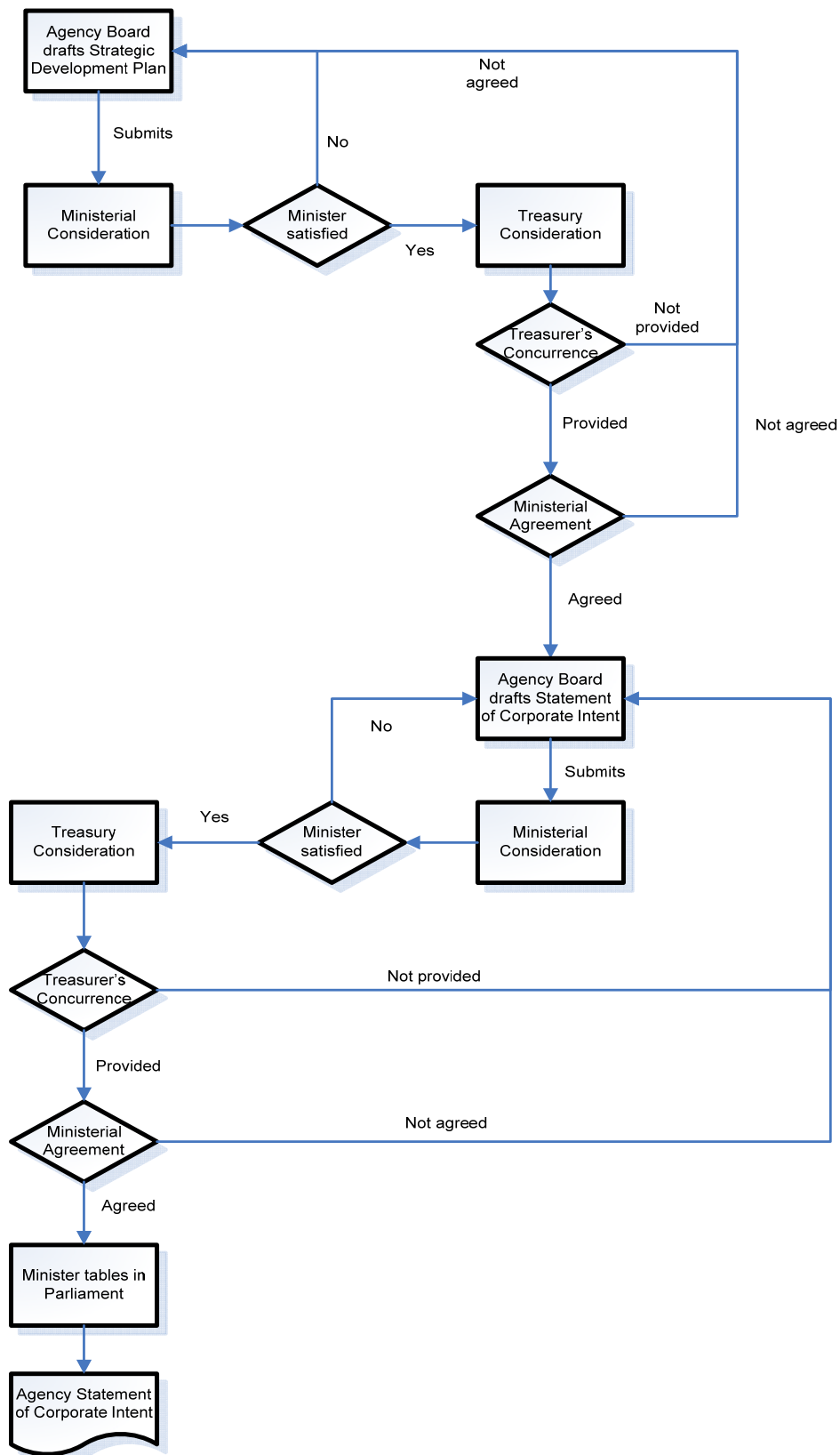


Figure One - Overview of SCI development and Approval

Key Features of the Development of a Statement of Corporate Intent

- 3.7 In its review of the sample of legislation covering the development of SCIs, the Committee identified several features that it wished to consider further.

Treasurer's Concurrence

- 3.8 As can be seen in Figure 1, there is a key requirement for the Treasurer to provide concurrence³⁶ with an SDP and SCI before the portfolio Minister can agree to it. This is a consistent feature of all the legislation considered by the Committee.

Deemed Agreement to an SCI

- 3.9 The reason the Treasurer's concurrence is significant is due to the existence of a deemed agreement provision in all the legislation examined by the Committee.
- 3.10 The deemed agreement provision means that if the portfolio Minister has not agreed to the SDP (or in most cases the SCI), the draft SDP and the draft SCI are deemed to be the operative SDP and operative SCI for that agency.
- 3.11 However, where the draft SDP and/or draft SCI have been deemed the operative documents they cannot be tabled in Parliament as they are draft documents.
- 3.12 This outcome means Parliament can be frustrated in holding an agency to account for its operational and financial performance by the Treasurer failing or refusing to provide concurrence to the deemed operative documents.
- 3.13 It should be noted that when the portfolio Minister finally gives agreement, the SCI immediately takes effect.

Auditor General's observations of recurring widespread non-compliance

- 3.14 The Auditor General stated in his Assurance Audits Report that:

Widespread non-compliance with the legislative requirement to table annual Statements of Corporate Intent (SCI) continues. At 30 September 2010, SCIs for 15 out of 22 agencies had not been tabled for 2010-11. Nine out of 19 agency SCIs were not tabled for the prior year.³⁷

³⁶ see ss49, ss58 *Water Corporations Act 1995*, ss96, ss105 *Racing and Wagering Western Australian Act 2003*, ss57, ss66 *Electricity Corporations Act 2005*, ss57, ss66 *Port Authorities Act 1999*

³⁷ *Ibid*, p13.

- 3.15 The Committee pursued this matter in its December 2010 hearing and was advised by the Auditor General that:

I think it is fair to say that the reason for reporting this matter the way that we have is as a result of my concerns that not enough effort is being put into this particular area. I believe statements of corporate intents are a very valuable part of our accountability framework and they are an important information resource for Parliament. Our examination of agencies suggests that they are being routinely prepared and provided. They are simply not making it through the process so they end up being tabled in Parliament and available for Parliament and the public.³⁸

- 3.16 The Auditor General stated later in his Assurance Audits Report that:

Where the Minister has not agreed or the Treasurer has not concurred then the latest draft SCI takes effect. However, tabling of the SCI would not take place until full agreement is reached.³⁹

Updated status of SCI tabling

- 3.17 In his report the Auditor General outlined all the agencies with a SCI requirement and their tabling status as at 30 September 2010. That table is reproduced below along with an update as at 31 March 2011.

³⁸ Mr Colin Murphy, Auditor General, Office of the Auditor General, *Transcript of Evidence*, 13 December 2010, p12.

³⁹ Office of the Auditor General, *Audit Results Report Annual 2009-10 Assurance Audits*, Auditor General, Perth, November 2010, p26.

Table 1**SCIs tabled⁴⁰**

Entity	Auditor General's Report		Current Status
	2010/11 SCI tabled by 30 Sept 2010		2010/11 SCIs tabled as at 31 March 2011
Horizon Power	11 Aug 2010		
Synergy	11 Aug 2010		
Verve Energy	11 Aug 2010		
Western Power	18 Aug 2010		
Western Australian Land Information Authority (Landgate)	16 Jun 2010		
Fremantle Port Authority	23 Sept 2010		
Albany Port Authority	23 Feb 2010		12 Oct 2010
Water Corporation	Not tabled		25 Nov 2010
Western Australian Land Authority (Landcorp)	Not tabled		11 Nov 2010
Chemistry Centre (WA)	Not tabled		15 Feb 2011
Gold Corporation	Not tabled		10 Nov 2010
Insurance Commission of Western Australia	Not tabled		9 Nov 2010
Racing and Wagering Western Australia	Not tabled		15 Feb 2011
Western Australian Treasury Corporation	Not tabled		9 Nov 2010
Bunbury Port Authority	Not tabled		12 Oct 2010
Dampier Port Authority	Not tabled		12 Oct 2010
Esperance Port Authority	Not tabled		12 Oct 2010
Geraldton Port Authority	Not tabled		12 Oct 2010
Port Hedland Port Authority	Not tabled		12 Oct 2010
Broome Port Authority	Not tabled		15 Mar 2011
Government Employees Superannuation Board	Not tabled		Not tabled

3.18 As can be seen from the table, 12 SCIs were tabled after 30 September 2010, with the latest SCI being tabled eight and half months after the start of the relevant financial year.

⁴⁰ *Ibid*, p27.

Department of Treasury and Finance response to Auditor General Recommendation

- 3.19 The Auditor General recommended in the Assurance Audits Report that “*Statements of Corporate Intent be tabled within timeframes required by the relevant legislation.*”⁴¹
- 3.20 The Department of Treasury and Finance (DTF) responded to the Auditor General’s recommendation advising that it:

has begun work on two separate (but related) projects which may improve the quality and compliance of SCIs to legislative instruments.

*These projects include work on establishing umbrella legislation for public corporations, as proposed by the Economic Audit Committee Final Report (2009) and a review of SCI’s and Strategic Development Plans. Umbrella legislation will ensure consistency in requirements for SCIs thereby making compliance across agencies simpler, while the review will include as part of its scope, an assessment of processes surrounding the submission of SCIs and other causes that may be delaying tabling of Government approved documents.*⁴²

Committee Comment

- 3.21 The Committee notes DTF’s commitment to reform for SCIs. The Committee believes that the timeframe for SCI development should match that of the annual Budget tabled in Parliament. For example, the SCIs for the 2012/13 financial year should be approved prior to the start of 2012/13 financial year. In addition, the financial data used in developing a SCI must be consistent with that disclosed in the Budget in order to preserve the integrity of the Budget. This is particularly the case for agency borrowings.

Racing and Wagering Western Australia

- 3.22 Racing and Wagering Western Australia (RWVA) is a body corporate established under the *Racing and Wagering Act 2003* (RWA). It is “*the controlling authority for thoroughbred, harness and greyhound racing in Western Australia, together with the responsibility for off-course TAB wagering.*”⁴³

⁴¹ Office of the Auditor General, *Audit Results Report Annual 2009-10 Assurance Audits*, Auditor General, Perth, November 2010, p28.

⁴² *Ibid*, p28.

⁴³ Racing and Wagering Western Australia, *2010 Annual Report*, Racing and Wagering Western Australia, Osborne Park, 11 Oct 2010, p6.

3.23 The Committee took evidence from RWWA regarding its 2009/10 Annual Report. In the course of that hearing the Committee asked about RWWA's strategic development plan and SCI. The relevant portions of that evidence are outlined below:

Hon KEN TRAVERS: *What I am interested in is: did you complete a strategic development plan and a statement of corporate intent for the 2009–10 financial year, and, also, in the 2009–10 financial year, did you develop a statement of corporate intent and a strategic development plan for the 2010–11 financial year? If you have done so, have they now been tabled in Parliament; if they have not, why have they not been?*

Mr Burt: *The SDP has been completed each year and presented to the minister, and the minister through the normal process presents that to the Treasurer and the Treasurer has not given his consent or, I forget the formal word, but he has not given consent —*

Hon KEN TRAVERS: *Concurrence.*

Mr Burt: — *concurrence—thank you—to the document. To answer your question, Racing and Wagering WA has completed a full and complete SDP each year since its inception in 2004. As of, I think, 2006–07, that was our last approved SDP. Until you have your SDP approved, or where the Treasurer gives concurrence and the minister writes back advising us, you cannot complete or table your SCI. So, technically, we have not completed our SCI or tabled it because we have not yet had the Treasurer's concurrence to it.*

Hon KEN TRAVERS: *Do you know why the Treasurer is not giving his concurrence?*

Mr Burt: *Yes, and it is quite easily explained. The business, Racing and Wagering WA, in running the TAB in this state, has been predicting for the last five or six years that it is going to have to replace major capital systems within its business. As such, it has been saving for that process. It has built up its reserves, and through the period of the last three years, it has been undertaking that exercise. When I say “systems”, I put some sort of meaning to it: I am talking about betting terminals and its network and its main betting system. Together these projects amount to around \$50 million, so they are quite a large amount of capital.*

We presented our SDP in line with our normal business processing over those years, since 2006–07, and the Treasury has not been comfortable with the level of capital expenditure that we have been

predicting and undertaking. Understandably from their point of view, they have explained to us that it has an impact on our cash balance, because we do not draw on funds from the government, we do not get grants in terms of running our business as we run in a trading enterprise environment and we have cash-at-bank. Our positive cash-at-bank offsets the state's net debt. So, by saving our cash balance and then spending it in a responsible way on our asset replacement programs, it is a normal business process, but it reduces the government's ability to offset the net debt of the state. We have been undertaking the normal business process of saving up and expending the money on asset replacement programs. The real difference between our SDP and what the Treasury would like is just the level of capital expenditure. They have made that very clear to us. In fact, now that we have undertaken those major programs, through a recent communication, they are now perusing our SDP and we will be tabling our SCI.

Mr Hilton-Barber: *Just to clarify, they have indicated that the expenditure that we have put forward for approval, they are quite happy with, barring a very minor immaterial demand, and we are hopeful that the SDP will now be approved.⁴⁴*

- 3.24 The impact of not having a current approved SCI was discussed with the agency. The Committee was advised that:

Hon KEN TRAVERS: *I just wanted to go back and finish off on the statement of corporate intent. You have not been given approval by Treasury to go and spend the money, and you have actually got on with replacing your infrastructure.*

Mr Burt: *No; sorry, if I can qualify that. We are still working to, formally, the 2006-07 SDP; we have not had approval of our SDP since then. We are confident, or we are hopeful, that our 2010-11 one will be approved shortly, but we have already undertaken those projects. We have been busily replacing those assets over the last three years.*

Hon KEN TRAVERS: *That was included in your 2006-07 statement of corporate intent, that you would do that replacement, was it?*

⁴⁴ Mr Richard Burt, Chief Executive Officer, and Mr Julian Hilton-Barber, General Manager, Finance and Business Services, Racing and Wagering Western Australia, *Transcript of Evidence*, 6 December 2010, p18-19.

Mr Burt: *Not to the extent that we have; the betting terminals were not in there.*

Hon KEN TRAVERS: *If you do not have agreement on the statement of corporate intent, has the minister issued you with any directions?*

Mr Burt: *No.*

Hon KEN TRAVERS: *So how does that work? You are operating on the 2006–07 statement of corporate intent and there is a more modern one on which you have been trying to get concurrence from the Treasury and it has refused to do it, but you are still going ahead and operating on the new statement of corporate intent.*

Mr Hilton-Barber: *If I can jump in, if the strategic development plan is not approved, it will become the SDP that we work to for that year. Basically, unless the minister directs us to change that SDP, the unapproved SDP is the one that we work through and work towards under the act.*

Hon KEN TRAVERS: *The one that you have presented to him?*

Mr Hilton-Barber: *The one that we have presented.*

Hon KEN TRAVERS: *So it does not really matter if the Treasury gives you concurrence or not; you can continue to operate until the minister directs you to stop.*

Mr Burt: *Correct, but it is not an ideal situation.*⁴⁵

- 3.25 The Committee notes that RWWA's SCI for the financial year ending 30 June 2011 was tabled in the Legislative Assembly on 15 February 2011.

Committee Comment

- 3.26 The Committee views the process for approving an SCI as entirely within the control of the respective agencies and Government. The repeated failure of agencies to meet their statutory requirements in a timely manner for a material accountability obligation such as SCIs reflects poorly on them, irrespective of the reasons.
- 3.27 The Committee accepts RWWA's evidence that its failure to meet its statutory obligations regarding tabling of its SCI in a timely manner was caused by DTF and ultimately, the Treasurer.

⁴⁵ *Ibid.*, p6.

- 3.28 The impact of not meeting the SCI obligations in a timely manner is that Parliament and the public is frustrated in holding agencies to account.
- 3.29 The Committee understands the need for DTF to be involved in the establishment of financial targets for agencies. In fact, the Committee notes that establishing an agency advisory and monitoring unit within DTF to have oversight of agencies was a recommendation of the Economic Audit Committee.⁴⁶
- 3.30 The Committee believes that there is potential for lines of accountability to become blurred with respect to responsibility for ensuring that an SCI and SDP are tabled in a timely manner. All the legislation considered by the Committee required the Treasurer's concurrence prior to the portfolio Minister agreeing to a proposed SDP and SCI.
- 3.31 The Committee is of the view that the portfolio Minister is principally responsible for ensuring agencies comply with the legislation associated with their portfolio.
- 3.32 The practice of agencies operating in accordance with a draft of an SCI means that these agencies are operating in a manner not fully visible to Parliament. The current legislative arrangements mean that the outcome is an agency operating in accordance with objectives that are veiled from public view.

Finding 1: The Committee finds that the current legislative arrangements for gaining the Treasurer's concurrence with either an SDP or an SCI has the effect of permitting an agency to operate in accordance with objectives hidden from public view.

Recommendation 3: The Committee recommends that in the event the portfolio Minister does not table an SDP and an SCI in accordance with the legislation due to the Treasurer not giving his concurrence, then:

- the Minister should table the most recent draft of the SDP and SCI that the agency will operate under from 1 July under the deeming provisions;
- the Minister should provide an explanation to Parliament for the delay by 1 July being the start of the next financial year; and
- the matter should be taken to Cabinet for resolution.

⁴⁶ *Putting the Public First Partnering with the Community and Business to deliver Business Outcomes*, Economic Audit Committee, October 2009, p 129, Recommendation 29,

CHAPTER 4

COMPLIANCE ISSUES WITH KEY PERFORMANCE INDICATORS

4.1 The Auditor General's Assurance Audits Report advised that the other main source of audit qualifications related to Key Performance Indicators (KPIs). Four agencies received qualified opinions on their KPIs. Those agencies were:

- Department of Agriculture and Food;
- Department of Child Protection;
- Local Health Authorities Analytical Committee; and
- Racing and Wagering Western Australia.

4.2 The Committee was advised that:

The Audit Results Report identified 20 agencies that were advised of a total of 45 deficiencies in their KPIs with two-thirds relating to data collection and target setting. This was similar to the previous year.⁴⁷

4.3 To put this in context, the Auditor General briefed the Committee that:

The number of agencies that failed the TI⁴⁸ requirements for KPIs decreased slightly. However, the agencies with weaknesses generally need to take urgent action to improve their KPI reporting.⁴⁹

Racing and Wagering Western Australia 2009/10 Annual Report Hearing

4.4 The Committee heard evidence from Racing and Wagering Western Australia regarding its Annual Report on 6 December 2010. In the course of the evidence, the Committee sought an explanation from the agency regarding its qualified audit opinion. The transcript of the explanation is contained below:

***Hon KEN TRAVERS:** Your annual report was qualified by the Auditor General regarding the KPIs and your failure to set targets.*

***Mr Burt:** We set targets; we chose not to disclose them.*

⁴⁷ Auditor General's Briefing Paper for the Legislative Council Standing Committee on Estimates and Financial Operations, 13 December 2010, p5.

⁴⁸ Treasurer's Instruction.

⁴⁹ Auditor General's Briefing Paper for the Legislative Council Standing Committee on Estimates and Financial Operations, 13 December 2010, p3.

Hon KEN TRAVERS: *Information is provided under KPIs within your —*

Mr Burt: *I was concerned about publishing revenue budget targets for competitive reasons against our other waging competitors.*

Hon KEN TRAVERS: *I understand the argument you put there. I guess the question I have is: firstly, if you are reporting the information anyway under the KPI section but just not giving your target, how is that assisting with the commercial sensitivity? Secondly, is it not a requirement of at least “Treasurer’s Instructions”, if not, the Financial Management Act to have KPIs? If that is the case, what are you doing to reconcile the fact that you are in breach of the act? Do you have a process in place to try to resolve the problem you are facing?*

Mr Burt: *Firstly, I was concerned about publishing information in the period specifically of last year when our competitors did not. They were not accountable on the same level as we were, so I requested of our board, and mentioned to our minister, that we were going to choose not to put in our targets, or our budget, in terms of our revenue target. We were happy to put in all the other budget KPIs in terms of FTE and performances. We just did not want to have revenue budgets. We felt it was commercially prejudicing us. In terms of what we are doing about it, we are going to have to work with Treasurer to come up with targets that Treasury will accept, that, from a revenue point of view, are more built around the variance to the prior year as opposed to setting targets for budget. There are non-revenue targets that are not commercially sensitive, as I say, that are organisational-type productivity elements. They are fine. We are working through that process at the moment.*

Hon KEN TRAVERS: *Is it not a requirement under at least the “Treasurer’s Instructions”, if not the Financial Management Act, to include KPIs as part of financial reporting?*

Mr Burt: *We have the ability to do what we have done and we end up with a qualified opinion from the auditor.*

Mr Hilton-Barber: *It is a requirement. It comes under the “Treasurer’s Instructions”. That forms part of the Financial Management Act. The basis of our qualification is that we have not complied with the “Treasurer’s Instructions.*

Hon KEN TRAVERS: *One of the interesting things that occurs here is that the chairman, yourself, the deputy chairman and the general manager finance have all signed to say that the financial statements have been prepared in accordance with the Financial Management Act, but it appears that that is not the case because you have not complied with the “Treasurer’s Instructions”. I am not having an argument about the case you have put about the sensitivities; it is more about how we ensure agencies do not ignore the Financial Management Act and head those things off in advance, to try to say, “We need to get something fixed before we go in breach of the act.”*

...

Mr Burt: *As an organisation, we are always compliant and the only variation is the SDP process from 2006–07. Had that not been an issue, which we will not go back over, in terms of our spending down our saved money; had Treasury said, “You’ve saved, you’ve built up reserves, you are not requiring any debt, we are fine with that”, we would have had our SCI lodged on time every year. This is the first time we have had a qualified opinion in the annual report. The reason is that we felt the budget information was commercially sensitive relative to revenue. How we ensure that we comply going forward is by reaching agreement with the Treasury in terms of what our revenue KPIs will be so that we do not have that commercial sensitivity.*

Hon KEN TRAVERS: *Will that be done before the next year’s audit?*

Mr Hilton-Barber: *That is certainly our intention. As a matter of clarification, two certifications are provided by the board and in fact me: certification of the financial statements and a separate certification of key performance indicators. The certification of key performance indicators merely indicates that the KPIs are relevant and appropriate. It does not say that they have to —*

Hon KEN TRAVERS: *They still sit within the overall financial —*

Mr Hilton-Barber: *They do. I am just saying that there are two specific certifications and that one is separate from the certification of the financial statements, which are on page 30.*

Mr Burt: *We are not in the habit of having non-complying accounts, and we are certainly not going to let this continue. We had a correction year whereby we did not want to be prejudiced through competitive activity, knowing information that is not in the public*

domain. Our job now is to agree KPIs with the minister and the Treasury.

Hon KEN TRAVERS: Did you prepare KPIs for the 2009–10 year and not publish them?

Mr Burt: Yes, we had KPIs. It was just the revenue of KPIs that we withheld. We showed the Auditor General and he was perfectly comfortable. But he had to make a public opinion because the information was not public.

Hon KEN TRAVERS: And because it is a requirement. The fact that you have not provided it does mean you are in breach. Although you may have had justification for taking that action, there was still an obligation on you to do that. I suspect the Auditor General will have the same view as me; that is, that should have been resolved before the end of the financial year, not by not tabling it; by changing your KPIs if that is the answer to the problem you are facing. Can we also request those KPIs be provided to the committee?

Mr Burt: In confidence; that is fine.⁵⁰

Committee Comment

- 4.5 While the Committee understands the need by Government agencies to manage commercial sensitivities to promote the interests of Western Australia, it does not accept that this gives agencies the right to unilaterally determine whether they will or will not comply with their annual reporting obligations as stated in the *Financial Management Act 2006* (FMA) and supporting Treasurer's Instructions.
- 4.6 The Committee expects that all agencies will meet all of their statutory reporting obligations all of the time. Accountable authorities (as defined under the FMA) are not entitled to decide which obligations it will meet and those it will breach.



Hon Giz Watson MLC

Chair

Date: 9 August 2011

⁵⁰ Mr Richard Burt, Chief Executive Officer, and Mr Julian Hilton-Barber, General Manager, Finance and Business Services, Racing and Wagering Western Australia, *Transcript of Evidence*, 6 December 2010, p18-20.

APPENDIX 1

MOTION TO ESTABLISH THE JOINT STANDING COMMITTEE ON AUDIT

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MOTION TO ESTABLISH THE JOINT STANDING COMMITTEE ON AUDIT

Extract from Hansard
[COUNCIL - Thursday, 24 September 2009]
p7617c-7617c
Hon Norman Moore

JOINT STANDING COMMITTEE ON AUDIT — ESTABLISHMENT

Notice of Motion

Hon Norman Moore (Leader of the House) gave notice that at the next sitting of the house he would move —

- (1) That pursuant to section 43 of the Auditor General Act 2006 —
 - (a) a Joint Standing Committee on Audit be established, comprising four members (including the Chairman) of the Legislative Council Standing Committee on Estimates and Financial Operations and four members of the Legislative Assembly Public Accounts Committee, two of whom from each house support the government.
 - (b) the Chairman of the Standing Committee on Estimates and Financial Operations be the Chairman of the joint standing committee; and
 - (c) the standing orders of the Legislative Council relating to standing committees be followed as far as they can be applied.
- (2) That the Legislative Assembly be invited to pass a similar resolution.