

Address to the Senior Executive
Leadership 20, Canberra

**Future Challenges and
Opportunities in the APS**

1 August 1997

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I. SETTING THE SCENE

When Bob Officer came to talk to me about issues to be covered by the National Commission of Audit as Chairman, I said that, in my view, the main message to the new Government should be that their major asset was a highly performing, innovative and committed public service. I was disappointed that no such sentiment was reflected in their report although the latter did indicate that the public service should be 'outcome focused and input efficient' as indicative of best practice around the world.

However, I am broadly in agreement with the framework of 'common-sense principles' used by the Commission of Audit which included the following decision sequence (see Attachment A):

1. assess whether or not there is a role for government;
2. where there is, decide which level of government, and assess whether or not government objectives are clearly specified and effectively promoted; and
3. assess whether or not effective activities are being conducted on a 'best practice' basis.

It is the prerogative of governments to decide what is to be undertaken within the public sector and how. Not surprisingly political philosophy will place a significant role in determining what constitutes 'core' government. Public servants accept this but also have a not unreasonable expectation that their advice would be sought on how to achieve the best outcome which would meet the Government's objectives.

However, such an expectation is not a right. It has to be won. The Government has to be convinced that worthwhile ideas and suggestions will be forthcoming from the public service. And that will only come from demonstrated quality performance. But there also has to be opportunity - made or created - to do so.

Public servants do not expect to be the only source of advice to governments. However, the wish to consult widely does

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create some challenges for public servants in terms of getting sufficient and appropriate opportunities, determining the right timing and ultimately providing the type of advice that can add greatest value to government decision-making.

I have a sense from many of the agency heads that the opportunities for consultation are not as great as they might prefer. Clearly, there is some variation in this experience but overall I think the observation is correct. One piece of evidence is the much reduced opportunities to be involved in the preparation of Cabinet Submissions and the often limited consultation that has occurred. The latter has been particularly disappointing where across-agency or across-the-service issues were canvassed.

What we do and how we do it are largely determined by the environment in which we work. It seems appropriate therefore to canvass the issues that the changing environment is confronting us with, the need for leadership and contribution in such a situation and the legislative framework that we will have to work in. I will then go on to discuss the management imperatives in relation to our organisations and programs and, finally, provide some comments on how the ANAO is addressing those imperatives.

II. THE CHANGING PUBLIC SECTOR ENVIRONMENT

As with many significant changes in our working and other environments, developments to date in the APS include both positives and negatives. The challenge for us is to take advantage of the positives and attempt to convert as many of the negatives as we can to opportunities. We cannot simply let the waves wash over us and assume we cannot influence decisions or events. We all have an obligation to contribute to a better public service. That means there will be occasions when we will have to make opportunities to do so. At the very least we need to take advantage of any situation which allows us to make a contribution.

The positives of current reforms in the APS are very much about management flexibility and the elimination of unnecessary bureaucratic processes. The major challenge of the reforms in my mind is to preserve the concept of 'one' public service for the Australian public which should help to provide the necessary confidence and assurance of common

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values, commitment and professionalism. That does not mean central control or direction. But it does involve provision of guidance and acceptance of corporate disciplines particularly in the ways we conduct ourselves and deal with our stakeholders and clients.

The negatives are basically about uncertainty and contradiction, which I will discuss later. The really concerning issues are the loss of corporate knowledge and expertise and the apparent diminution of the value placed on public service. Both are important for our performance and job satisfaction. The impact on confidence, morale and trust is difficult to assess. But what it highlights is the need for credible, visible and effective leadership. That must come from agency/entity heads and senior SES staff such as yourselves. It is a heavy responsibility at a time when 'champions' are in real demand to facilitate the demands being made on the public service in a more rapidly changing environment, often in uncharted territory and with inadequate skills availability, changing priorities and fewer resources. It is also a period where there is 'changing of the guard' with the departure of many agency heads and others in the near future. Their replacements are not only likely to have a considerable influence on the future of the APS but may also have quite different backgrounds, experience and expectations which could suggest a departure from the past.

Leadership and Contribution

We have to recognise the need to provide and encourage leadership in the APS at this time. It is no exaggeration to say it has now become essential and be more so in the foreseeable future. Without it, we risk being a second rate public service which will simply be a self-fulfilling truth. Private sector provision of public services will occur by default. The irony of such an outcome is that for many years the APS has had a well deserved reputation internationally for its innovation, professionalism and high level of performance. Many of our colleagues have been in demand as advisers to overseas governments and agencies. Many of our management and computing techniques have been adopted or adapted for use elsewhere including the ways in which we have administered particular programs.

While there has been some scepticism about the findings of the so-called Kakabadse Report (The Leadership Challenge for the Australian Public Service) it is difficult to ignore survey

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responses indicating a lack of cohesive leadership and clear direction. It is certainly not difficult to agree with their observation that:

'Poor example from the top spreads through the organisation like uncontrollable flames, inducing unhelpful behaviour and undermining morale internally and image externally'. (P.22)

I am supportive of leadership programs conducted by the Public Service Commission. But these are not sufficient by themselves. Agencies must encourage leadership. And there is no substitute for example. I commend the efforts made by Stephen Skehill and his SES group in the Attorney-General's department in this respect. The group set itself leadership standards to which all members agreed (see Attachment B). As well, each member has included a Leadership Development Plan in their SES performance agreement. BHP has established an in-house management school providing leadership courses for more than 5000 staff (including 1500 executives) a year - Business Review Weekly 10/2/97 (page 44 refers).

Uncertainty and Contradiction

Uncertainty and contradiction are aspects of organisation life that many public servants are quite familiar with. They could be said to go with the territory. They reflect the vagaries of any political system. Any public servant who loses sight of the fact that we operate mainly in a political environment is likely to be less than effective. It is what makes us different to the private sector including its institutional arrangements. We do not have to enter the debate as to whether public servants are responsible to Parliament or the Government of the day to recognise the many stakeholders we have to satisfy, not the least the Australian public who we also call customers or clients.

The following points indicate some of the contributions to uncertainty and contradiction. You may wish to debate them, or at least the extent to which they do impact on senior public servants' views and approaches.

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1. Devolution
 - DWRSB (Workplace Agreements including wage levels (ceiling) and baseline conditions (agreed with unions?))
 - PSC (New PS Act - Review and Audit functions of the PSC, as well as Commissioner's comments that 'The advice to be issued by the PSC will be briefer and quite different from our traditional approach. Our advice will set out the requirements of the legislation, some guiding principles and in some cases advice on good practice, for example, in relation to review of employment decisions. Our advice will not generally suggest procedures or processes'. (Letter to ANAO dated 21/7/97).
 - OGIT (Whole of Government : questionable savings - no say)
2. Contestability
 - Level playing field (Questionable concept: Agencies - Constitutional limitations on activities)
 - 36% tax rate on Departments - effective rate on private sector?)
3. Risk Management
 - Lack of Trust (Parliamentary concerns)
4. Inexperienced Government
 - Absence of, or confusion about, strategies. Lack of integration. Piecemeal. 'Shorttermism'. Dependence on Ministerial Offices/Consultants. Lack of trust in the Public Service. Making policy on the run.
5. Problem of getting the right balance of Management
 - Future of MAB/MIAC. PSC's report on the state of the APS. Charter of PS in a culturally diverse society.

Legislative framework.

Perhaps the most significant challenges and opportunities will come from the new legislative framework being developed for the public service as follows:

1. Public Service Bill-
 - Flexibility/Accountability (see Attachment C)
2. Auditor-General Bill (1 November)
 - Strengthened independence and mandate
3. FMA Bill
 - Core government. CEIs. Audit Committees. Accountability.
4. CAC Bill
 - Non core government.
5. Charter of Budget Honesty
 - Secretaries sign off.

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6. Workplace Relations Act 1996

- Audit review
- Productivity based pay.
- Across the service aspects (not really individual employers - part of Commonwealth Inc.)
- Base conditions and the unions. Query superannuation choice.
- Commercial v's non commercial activities (different pressures).

III MANAGING OUR ORGANISATIONS

It is a popular observation in property dealings to refer to the importance of location. In management the equivalent is communication. Experience shows that failures or inadequacies in management basically come down to poor communication. Despite the apparent recognition of its imperative in the management literature we have generally made only limited improvement in this respect in the public sector. However, we also have some other major challenges and opportunities to confront as follows:

Corporate Governance-

- Integration: understanding at all levels
- Risk Management: identification, assessment, priority setting
- Audit Committees
- Control Environment
- IT as a strategic resource
- Management information Systems

Contestability

- CTC: accountability and legal issues. (see below)
- Senate Committee Inquiry into Contracting Out.
- ARC. Ombudsman, Privacy Commissioner: transferring: responsibility and risks, black hole of accountability.
- Contract Managers: monitoring

Core Business

- Identification

Project Management

- JCPA concerns

Draft guidelines on records issues (Outsourcing)

- Australian Archives (sample contractual clauses).

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Workplace Relations

- Certified Agreements (and AWAs)
- Resource effort and credibility
- Flexibility: recognition of performance
- Acting like private sector but not paying like the private sector

Focus on People

- Personal Development (rewards/recognition)

Structures

- Responsibility levels (consistency and comparability)
- shared values (commitment)

The current Government is concerned that the public service should adopt a more private sector approach to its administration. An important element of that approach is its commitment to competitive tendering and contracting (CTC). This will also be discussed later under 'purchaser/provider' and 'client service' issues.

Because CTC involves introducing a new player in the accountability chain - the service provider, it inevitably raises important questions of public accountability. Research on competitive tendering and contracting has resulted in mixed views as to the resulting changes in accountability. As noted by the then Industry Commission (now the Productivity Commission), advocates of CTC point to increased flexibility in service delivery, greater focus on outputs and outcomes rather than inputs, allowing public sector management to focus on high priorities and the encouragement of suppliers to provide innovative solutions and cost savings in providing services.

MAB/MIAC (May, 1997) has estimated that savings have ranged from 6-60 per cent but trend to between 10-20 percent within Australia, the UK and the USA. Hodge (May, 1997) was less optimistic with estimated savings at 6-7 per cent based on some 20,131 measurements in different countries. Within the Commonwealth, the Department of Defence Commercial Support Program which was established in July 1991, had savings ranging from 6-60 per cent with average annual savings estimated at 30 per cent or \$76 million per annum. In 1992, the Department of Veteran's Affairs out-sourced its Information Technology Centre. Savings of the order of \$10-12 million were recorded although interestingly, the most frequently referred to benefits in this case were the improved communications, the more professional attitude of data centre staff and a greater focus

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on service delivery. In NSW, budget sector agencies also report average savings of 20 per cent from the out-sourcing of services. The UK Audit Commission estimates gains of around 20 per cent as a rough figure across the board, but with considerable variation around this figure. In the United States gains of approximately 20 per cent are reported by the Office of Management and Budget.

However other commentators have questioned the extent of these benefits. There is clear evidence that if poorly managed, competitive tendering and contracting can result in higher costs, wasted resources, impaired performance and considerable public concern about the waste of taxpayers funds. There is also a social cost in terms of the restructuring and job losses from out-sourcing as well as additional management costs for establishing the contract in the first place and supervising the contractors. These costs need to be considered in the total cost estimates for CTC and are particularly important if the transparency and probity of the tendering process is to be assured. There has also been documented cases where no difference in costs can be substantiated while in others there was clear cost increases. Part of the difficulty with calculating cost savings is the need to separate the CTC efficiencies from the gains achieved from 'business processing re-engineering' which should accompany the introduction of CTC. For example, in some instances a move to competitive tendering might precipitate clarifications of objectives and administrative processes that could equally be applied to 'in-house' service delivery.

Another risk from CTC concerns the opportunities for corruption. Instances of corruption within the context of CTC have been documented in the USA - Donahue (1989) Finder (1993) Schneider (1992) and Kobrak (1995) and in the UK by the Centre for Public Services (1995). Donahue (1989) in particular highlighted the formation of a 'contracting cartel' involving some 475 companies in the New York refuse collection and disposal market. Hodge (1996) and Field (1995) have noted eleven prominent Australian companies convicted of price fixing, misleading and deceptive misrepresentations or collusive tendering between 1994 and 1995.

Privacy is also an issue. The Privacy Commissioner has noted that agencies will be held accountable for the way that their personal information is handled by contractors. In some cases, privacy considerations may be so significant that they

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lead an agency to decide against out-sourcing. This has particular relevance for out-sourcing Information Technology.

These risks underscore the importance of accountability in the implementation of CTC within the public sector. The key message is that savings and other benefits do not flow automatically from the introduction of CTC. New opportunities and new risks are introduced. While competition is the key 'driver' for administrative savings, the nature of the public sector environment requires strong accountability elements if performance overall is to be enhanced. As an illustration, the US Defense Contract Audit Agency (which provides contract audit services to the Defense Department) estimates to have returned some \$3.8 billion in savings to the government through its audit activities. Examples of savings in relation to third party providers included:

- overcharging for tooling costs;
- overstatement of material, labour and overheads; and
- failure to pass on quantitative discounts.

Clearly the emerging CTC environment requires the public sector to develop different approaches to those that have traditionally been put in place and which have been refined over many years. It also raises important questions as to the appropriate mix of skills and training relevant to the public service. However it is also important to realise that CTC does not equate to contracting out the responsibility for the administration of the service or program. It is the responsibility of the agency to ensure that the service delivery is both cost-effective and acceptable to the service recipients and key stakeholder groups. This means that the agency must specify the level of service delivery and quantitative and qualitative service standards in the contract and also ensure that an adequate level of monitoring of the service delivery is undertaken as part of the agency's contract administration responsibilities. The inclusion of access provisions within the contract for performance and financial auditing is also very important in maintaining the thread of accountability.

In a submission to the Senate Standing Committee on Finance and Public Administration Inquiry into contracting out of government services, the Commonwealth Ombudsman has expressed concern about the accountability of contracted services. Investigations into over 300 complaints in relation

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to contracted services in 1995-96 revealed concerns by suppliers and consumers about:

the inability of consumers to recover losses from service providers;

stand-offs and lack of mechanisms for resolving disputes over contracted services;

buck-passing between different agencies - the department, contractor and insurer;

inadequate or ambiguous contractual arrangements;

oppressive behaviour of government departments towards small business;

favouritism or exclusion from the tender process.

The Commonwealth Ombudsman's submission made it clear that where contracts can not be adequately enforced contracting out should not be used.

It is important to understand that the introduction of *new ways* of delivering public services such as through CTC does not obviate or limit the need for accountability because of the market discipline induced by competition. To the contrary, less direct relationships and greater decision-making flexibility strengthen that need. The recent Federal Court decision involving Hughes Aircraft Systems International v's Air Services Australia on public sector tendering (June 1997) also reinforces the need for probity in the tendering process. In this case, the key message from Justice Finn is that all public bodies issuing a Request for Tenders (RFT) may be bound to comply with the terms of the RFT including matters going to the methodology, timetable, evaluation framework and evaluation criteria. Australian case law now incorporates a precedent that a 'term should be implied as a matter of law in a tender process contract with a public body that it will deal fairly with a tenderer in the performance of the tender'. In this case, the Commonwealth body had breached that contract as it 'failed to evaluate the tenders in accordance with the processes set out in the RFT, failed to ensure that confidentiality measures were maintained and accepted an out of time change to the proposal by one tenderer.'

This case is illustrative of the more litigious environment for the public sector where contractors and unsuccessful bidders are less fearful of challenging government decisions in the courts. Clearly, to operate effectively within this environment,

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agencies require, *inter alia*, careful attention to probity and an analysis of the risks involved in implementing CTC. Within this context, some degree of cost-benefit analysis as to the most appropriate mechanisms to achieve the stated outcomes is clearly essential. CTC should be no different from any other option in this regard. These matters also need to be considered within an ethical decision-making framework that can be provided through well designed corporate governance principles - addressing both relations with stakeholders and the accountability/performance requirements of the agency.

The importance of ethics is underscored by the recent case of J S McMillan Pty Ltd vs the Commonwealth (July 1997) which involved tenders for the old Australian Government Publishing Service site. Justice Emmett found that while the Commonwealth has breached the *Trade Practices Act (1974)*, the Commonwealth is not bound by the Act in this case because it was not found to be carrying on a business. While this decision may appear to give some protection to the Commonwealth in the courts in areas of government activity, the risk is that market perceptions of 'sovereign risk' could rebound on the Commonwealth in the future in terms of market cynicism and reduced competition for government business. Moreover, the issue of application of the *Trade Practices Act 1974* is made uncertain by Justice Finn's judgement in his decision on Hughes Aircraft Systems International v's Airservices Australia (June 1997). This may be a matter to be sorted out by the Full Bench of the Federal Court.

IV. MANAGING PROGRAMS

The establishment of a performance culture supported by clear lines of accountability are essential parts of the government's approach to reform in the APS'. The following points are relevant in those respects:

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| Performance Information | - outputs v's outcomes |
| | - performance of third parties |
| Accountability | - accrual accounting MIS/FMIS |
| | - output budgeting |
| | - risk management |
| Purchaser/provider | - market testing |

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Client Service

- in-house bids
- legal issues
- monitoring/auditing
- service charters
- ANAO/MAB 'Quality Customer Service (draft guide)
- Russell Higgins 'Government Service Charters' (PSMPC Seminar 25/6/97)

Performance Information

Performance information is a critical tool in the overall management of programs, organisations and work units. It is important not as an end in itself, but in the part it plays in managing effectively and has an expanded role in the new ways of delivering public services as a means of protecting Commonwealth and public interests. It is therefore a key component of good corporate governance. However it is not always easy and it can prove to be one's Achilles heel or, alternatively, the best defence of a program and of the people who are responsible for it. I regard it as recognition of a job well done as well as a means of identifying where improvements can/need to be made.

Performance information fits within the wider management framework that includes objectives, strategies for achieving objectives and mechanisms for collecting and using performance information. Performance information is documented and reported in corporate publications to the Parliament and other stakeholders and managed within the annual corporate cycle. In these respects it is crucial to public sector accountability. Put simply, it is the main means through which assurance is provided transparently to the Parliament and public that the Government's objectives are being met.

The current responses are very strongly focussed on outcomes but performance information must provide us not only with an understanding of the outcomes achieved but must tell us the full story about the level of inputs and outputs, whether the processes used are cost effective, are the services provided of the appropriate quality and so on. In focussing on outcomes we should not lose sight of the means of achieving the outcome which need to be considered among

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other things, social and equity issues. In this case we must be wary of the ends justifying the means.

The development of performance information can be both resource intensive and costly. Therefore we should focus on a suite of key indicators which measure something of importance rather than something easy. Audit Report No. 36 1996-97 *Commonwealth Natural Resource Management and Environment Programs* highlighted particular areas of administration where after some five to eight years since their inception, the Commonwealth was unable to indicate in any detail what outcomes had been achieved from a suite of key programs such as the National Landcare Program and Save the Bush. In this case, performance information was very important to substantiate the value of some \$400 million in Commonwealth investment already made and some \$1.25 billion projected for expenditure under the Natural Heritage Trust.

While recognising the constraints on agencies such as poor baseline information, progress can and should be measured otherwise there is no way that any program can indicate how it is achieving the Government's stated objectives. *Performance information* is evidence about performance that is collected and used systematically. Performance refers to the carrying out or achievement of a particular purpose, task or function. For a program, organisation or work unit, the key elements of the program or work structure include the resources used (inputs), what is done (processes), what is produced (outputs), and what impacts are achieved (outcomes). Performance information addresses the relationships between these elements. It should facilitate the identification of outcomes and the monitoring and evaluation of the efficiency and effectiveness of processes used to achieve them. That is, it should provide sufficient information to answer questions on key aspects of performance, such as:

How effective is the program in achieving the desired outcomes?

How efficient is it in using inputs to produce the required outputs?

What is the quality of the program's outputs and outcomes?

Are clients receiving a satisfactory level of service?

Is the program meeting access and equity requirements?

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Performance information may be obtained in a number of ways. It may be specifically sought through client surveys, extracted from management information systems or be an outcome of evaluative activities. Program evaluations themselves can be a rich source of performance information.

Performance information can be used to monitor the ongoing performance of programs and organisations - to provide information which enables judgements in the short term about how they are performing. Performance information is also used to make periodic and more in-depth evaluations of performance over medium to longer-term time frames. Performance monitoring and evaluation both require performance information and are complementary approaches to assessing performance.

Having said performance information is not necessarily easy to develop there are some characteristics which, if they are considered in its development will ensure that we develop good performance information. Each of these is discussed separately below.

Quantitative and qualitative performance information.

Performance information may be quantitative (has a numeric value) or qualitative (that is, characteristics are described). The latter are particularly useful because, as noted by the MAB/MIAC Report *Performance Information and the Management Cycle*. In many situations it is only with qualitative performance information that the objective and strategies can be directly linked and cause/effect (impact) relationships demonstrated. Nevertheless, every effort should be made to measure performance where it is feasible to do so.

Achieving an appropriate balance. Historically, performance information tended to be concentrated on the measurement of inputs and outputs. However, balanced sets of performance information are important as they facilitate management and accountability, and enable the investigation of the interactions and inter-relationships between the factors which influence outcomes. If only one aspect of program performance is measured, it is likely that this is what program managers will (generally) concentrate on. As a result, overall program performance could deteriorate.

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Data: validity, reliability and accuracy. The data used should be of a high quality. Therefore, it should be:

- valid, in that it actually measures the characteristic it purports to measure;
- reliable, in that, given set conditions, the information collected will not vary significantly; and
- accurate and timely.

Where necessary, expert statistical advice should be sought to ensure that the information collection techniques are appropriate. In particular, it is important to ensure that the information is not biased because of, for example, poor survey design or sampling errors:

Number of items. There is no 'ideal' number of items of performance information. Rather, the emphasis should be on balance, quality, usefulness and timeliness. A small set of key performance information is likely to be more manageable and consequently more useful. However, it may be necessary for people at different management levels, levels of Government, or in different geographic areas, to have information on different aspects of performance.

Cost/benefits. The cost/benefit of collecting key data items or improving existing data collections is an important consideration. The benefits arising from the collection of additional or more accurate information should outweigh costs related to the collection, storage and use of the information. To assist in reducing costs and maximising benefits, key performance information relevant to each goal or objective should be identified.

Continuity of performance information. An important aspect of performance information is continuity. If the information is stable over time it can be used to determine what trends exist and, for example, if performance is improving over time. It is, however, reasonable for performance information to change from time to time in order to ensure it remains credible, actually reflects performance achieved, and is relevant and useful for performance improvement.

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Actual assessment of performance, whether for ongoing program monitoring or evaluation, is based on comparisons. Standards, targets, benchmarks and milestones all provide a basis for comparisons. A detailed discussion of these mechanisms and the characteristics of good performance information can be found in the recently released, joint ANAO and Department of Finance better practice guide: 'Performance Information Principles.'

Whether it is in the development of the performance information itself or the mechanisms which allow assessment of our achievement we need to be careful that we do not encourage inappropriate actions or behaviour. For example, in the setting of targets, care should be taken to ensure that the focus does not become the achievement of individual targets at the expense of overall performance. A particular case in point would be where departments receive enquires from the public they need to ensure that process performance information and associated targets, such as time to answer telephone calls, are complemented by quality of service performance information.

Having developed the mechanisms to allow the assessment of performance, it is important that we use our performance information for ongoing monitoring as well as for point in time assessment and reporting. Ongoing monitoring at different levels in the organisation assists to identify at an early stage if there are problems. Prompt remedial action can then be taken to ensure that our program is on the right track and that we are using our resources in such a way so as to maximise outcomes.

In reporting on outcomes, particularly to the Parliament, performance reports should be balanced and candid accounts of both successes and shortcomings. They should have sufficient information to allow Parliament and the public to make informed judgements on how well agencies are achieving their objectives. Reports should include information on performance trends and comparisons over time rather than just a snapshot at a point in time which may be misleading.

Purchaser/Provider and Client Service - a Partnership?

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The ANAO has conducted a series of performance audits that have examined the implementation of the purchaser/provider model in different Commonwealth agencies. While there have been many positive and well managed CTC initiatives within the Commonwealth, such as the Information Technology outsourcing in the Department Veteran's Affairs, some of the common problem areas across agencies have included:

- vague or ambiguous objectives that make ex-ante evaluation difficult;
- high transaction and compliance costs;
- roles and responsibilities not sufficiently defined for parties to the contract;
- performance information inadequate to determine whether outcomes are being achieved;
- progress payments often made in advance of need and not linked to program/project milestones; and
- insufficient rigour in the assessment and management of financial risks for the Commonwealth.

Taken as a whole, these findings tends to suggest that the Commonwealth agencies may need to focus much more strongly on building contract management skills and expertise if CTC is to successfully become the 'main game' in the APS. The introduction of Government Service Charters, should assist in the treatment of accountability issues as well as outlining commitments to recipients. The Government's objectives for service charters include:

- setting out the nature and level of service clients can expect to receive; and
- putting service quality alongside efficiency and effectiveness as a key evaluation criterion.

The Department of Industry, Science and Tourism has recently published, *Principles for Developing a Service Charter (1997)* which was developed by a task force of consumer, business and government representatives in conjunction with wide consultation with customers. These principles provide a guide for departments developing charters and include monitoring, review and accountability mechanisms. Most significantly, and ambitiously when considered in the light of overseas experience, the

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Government has taken the decision that charters would apply well beyond those services provided directly to the community by Government. It has decided that key aspects of service charters should also apply to indirect service delivery functions, that is, through program grant arrangements and competitive tendering and contracting out. This has been introduced to ensure that efficiency gains will not be achieved at the expense of service standards. The Child Support Agency and the Australian Taxation Office have been leading the APS in the introduction of service charters. Service charters may assist in strengthening accountability by providing a clearer focus on activities against which agencies should report as part of their annual requirements.

Service charters have been designed to be streamlined and integrated with existing reporting mechanisms. This recognises that imposing excessive input controls can be to the detriment of innovations which might cost effectively contribute significantly to outcomes or results. The trade-offs are basically dependent on making judgements about appropriate balances. This places a heavy burden on information systems and assessment of probabilities of occurrences or events. Any systems should be primarily aimed at preventing problems, providing scope for detection and ensuring that decisive action is taken to deal quickly and firmly with unwanted outcomes. Information technology provides the means of extending a productive relationship between clients and service providers. We are witnessing innovative approaches in this respect from the social welfare agencies.

For example, these new arrangements include the establishment of the Centrelink Service Delivery Agency which is delivering some Department of Social Security (DSS) and Department of Employment, Education, Training and Youth Affairs (DEETYA) services) and Employment Placement Services particularly to the unemployed. It is particularly important to note that in these arrangements the customer/client is at least one step removed from the responsible Commonwealth department but that the department remains accountable for the service delivery. As well, in such arrangements policy advising and administration may well reside in different entities. In these cases special care needs to be taken to ensure that satisfactory links and feedback loops are maintained not only to maintain program efficiency and effectiveness but also its appropriateness in a changing world.

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In this environment of a devolved and decentralised administration it is important to ensure that appropriate effective services continue to be supplied to the Australian public. In order to do this and to be able to assess outcomes in an arms-length relationship it is important that contractual relationships are clearly specified. These contractual relationships can take the form of service level agreements, memoranda of understanding or work-based protocols. These documents often articulate what results are expected, from whom, how results are to be evaluated and how differences are to be arbitrated. Contractual arrangements can encompass a degree of uncertainty but no-one would seriously be satisfied with continually changing contract arrangements to cope with ineffective or inadequate service provision as it may be defined.

It is particularly important that, whatever the contractual arrangement, early consideration be given to obtaining expert advice on developing the contract to later save the Commonwealth the time and expense of rectifying difficulties which arise, often after the contract has been signed. Conflicts can arise with contracts that are either too broad or too restricted in their coverage. The actions of government often need to be flexible to respond quickly to changing circumstances. This puts some pressure on having appropriate contingency clauses or at least an agreed mechanism for addressing problems. A complementary issue is that of assignment and acceptance of responsibility. This is an area where the trust and confidence needed in a genuine partnership to achieve the required results cannot be emulated in a contractual relationship. Nevertheless, there is sufficient evidence that performance clauses in contracts can be made to work effectively and not counter-productively.

Vague relationships do not assist either party nor lend confidence to the partnership arrangement. Clear definitions of the boundaries of a contract should assist in resolution of any disputes as to what is, or is not, covered including basic deliverables such as service levels and response times. As with any performance information, it is important to state clearly any expectations as a basis for regular evaluation as the lynch-pin of accountability for performance.

Moves to out-source service provision require good performance information to support, for example, the development of tenders, assessment of proposals and monitoring of contractual commitments including ongoing performance by third party service providers. For this reason

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it is important to require, as part of the contractual arrangement, the provider to supply the purchaser with outcome information against which the former's performance can be assessed. In this way, even if the client is one or more steps removed from the responsible department, it will still be possible to ensure that clients are receiving the appropriate level and quality of service. However, we also need to have a sound appreciation of the commercial nature of such agreements in the interests of both parties.

The public sector has traditionally carried a high level of social and political responsibility and accountability in respect of procurement of the many services it needs to operate effectively. These responsibilities flow primarily from the fact that public interest demands value-for-money and fairness in the treatment of potential suppliers to government. These issues are formalised in the general requirements in Finance Regulations 43, 44A and 44B that officers procuring supplies (including services) must choose methods that will promote open and effective competition and must satisfy themselves that they are obtaining best value for the Commonwealth. It should be noted that this is a wider test than best value for their department or their particular project.

It has been suggested that the stricter the accountability requirements the greater the case against contracting-out. Government departments and agencies are more accountable than private sector enterprises, as their decisions are open to scrutiny by Parliament, the ANAO, the Ombudsman, the courts, the Administrative Appeals Tribunal (AAT), the media and the general public. Private sector enterprises are not open to the same scrutiny. Furthermore, directors and managers of private sector companies owe fiduciary obligations to the company and shareholders to act in the best interests of their company and not necessarily in the public interest. These interests could conceivably be in conflict from time to time.

To achieve an adequate level of control and performance monitoring of a contract, the primary responsibility for ensuring sufficient access to relevant records and information relevant to a contract is the responsibility of agency heads. From an accountability viewpoint, the ANAO considers it is critical that agencies consider the nature and level of information to be supplied under the contract and access to contractors' records and premises as necessary to monitor adequately the performance of the contract.

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As part of its statutory duty to the Parliament, the ANAO may require access to records and information relating to contractor performance. The ANAO considers its own access to contract related records and information would generally be equivalent to that which should reasonably be specified by the contracting agency in order to fulfil competent performance management and administration of the contract. From this perspective, the ANAO considers it is imperative for contracting agencies to ensure the contract indicates the ANAO's powers in this respect and makes suitable arrangements for:

sufficient access to records, information and premises of the contracting parties to allow them to ensure their own, and ultimately their Ministers', accountability expectations are met; and

the Auditor-General to have sufficient access to ensure the accountability requirements of the Parliament are met.

Access to relevant records and information could be met by standard contract clauses supplemented as necessary by particular clauses that reflect individual circumstances of each agency. The use of mainly standard contract clauses would enable all parties contracting to the Commonwealth to be aware of the Commonwealth's expectations and their obligations in this regard for all contracts with third party service providers.

There is clearly going to be a closer focus on departments' interface with tenderers and contractors. The JCPAA has indicated that this is an area of interest to them. The ANAO's performance audit reports have drawn attention to this area and urged more care by officers when assessing value-for-money and negotiating, preparing, administering and amending major contracts. Departments would do well to get expert advice at each of these important stages in procurement in order to protect the Commonwealth's interests. It is not enough just to have a 'good' contract. The real test often comes after contract signature. From the Commonwealth's viewpoint major project management often comes down to firm and skilful contract management.

Partnership arrangements depend importantly on soundly based agreements which can literally be put in a bottom drawer for reference purposes only. The success of such

DRAFT

arrangements depends considerably on establishing a solid basis of trust with scope for a 'give and take' relationship within the terms of any agreement. This does add an element of risk because judgement can be involved often at relatively short notice. This is the essence of good management. However, the Commonwealth's exposure to any adverse implications must be clearly within the terms of the agreement. This not only assists WIN-WIN outcomes but also ensures transparency (accountability) of the decisions being taken.

A broader-based risk which should be considered is in the context of the increasing cross-entity and cross-program focus for development, evaluation and review purposes. This is identified by Finance as follows:

Under purchaser/provider arrangements, there is a risk that the vertical relationships within a portfolio or organisation will be strengthened at the expense of horizontal ones. Managers may place less emphasis on coordinating programs and policies across portfolios.

Whatever the partnership is under the contractual arrangements, there is a heightened need for sound risk management in relation to all phases of operation and for appropriate performance information as already indicated.

V. THE ANAO APPROACH

Finally, I will briefly make some observations on the broad approaches the ANAO is taking to meet the challenges and opportunities provided in the current environment as follows:

Culture of professionalism and
Continuous Improvement

Corporate Governance

Code of Conduct

Managing downsizing

Core Business

One Office (integration)

Lack of trust

Monitoring credibility with staff (critical
mass issue)

Core Government

DRAFT

Project management, non core business

Peer Review, Benchmarking, Client Surveys

Client Orientation

(Audit Committees, organisation visits)

Understanding the business

Audit Strategy Documents

New Audit Products

FCA/ACA

Better Practice Guides

Corporate Governance Statement (Core Public Sector)

Client Seminars

Financial Statements

guidance

Whole of Government accounts

JCPA as Audit Committee

Public hearings on Audit Reports

Independent inquiries on selected issues
(eg. project management)

Even though the ANAO's mandate is legislated, we act as if all our activities are contestable and cost all our audit products transparently.

VI. CONCLUDING REMARKS

I repeat my earlier assertion that now is the time for senior public servants to show real leadership. This is a collective responsibility. We need to both influence and implement the public service reform agenda efficiently and effectively. This approach will enhance our credibility and value to the Government, the Parliament and to the Australian people. I leave the last word to the Auditor-General of Canada who said late last year:

'For public servants, the challenge is to continue to innovate, to remain motivated and enthusiastic about serving the public interest (my underlining).'

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ATTACHMENT A

Some Common Sense Principles¹

The Commission has adopted a framework of principles, cognisant of the broad economic and social goals of government, to guide its analysis and recommendations for improvements. This framework includes the following decision sequence:

Assess whether or not there is a role for government.

Where there is, decide which level of government, and assess whether or not government objectives are clearly specified and effectively promoted.

Assess whether or not effective activities are being conducted on a 'best practice' basis.

What is government's role

Governments have an indispensable role to play in modern democratic economies. The things that governments should do lie at the heart of this role. Community expectations about what governments can do and how they should operate have changed since the 1970s and 1980s.

The things that governments should do can be grouped into two broad categories.

The first concerns social or equity goals that the community wants pursued. This covers such issues as helping the genuinely needy, redistributing income, ensuring access to basic levels of education, health care and housing, and achieving greater equality of opportunity through social justice policies.

DRAFT

The second category covers situations where, in the absence of government involvement, the actions of private individuals would result in inefficiencies such as insufficient or excessive production or consumption of certain commodities (for example, on the insufficient side, national defence or basic education, and on the excessive side, pollution or harmful drugs).

In short, governments have a central role in the community because they can set rules that specify people's rights and responsibilities. This role, which includes power to impose taxation to fund their activities, is the most crucial thing that democratic governments do.

1. National Commission of Audit 1996 *'Report to the Commonwealth Government'*, June (page vii).

DRAFT

ATTACHMENT B

ATTORNEY-GENERAL'S DEPARTMENT

Our Leadership Model

Leaders in our Department inspire us and encourage us to show initiative in a professional environment that supports rather than constrains.

Leaders empower us to achieve quality outcomes for our clients and other stakeholders. Full and dedicated participation from all of us is needed.

Leaders demonstrate integrity, honesty, judgement, loyalty, commitment, decisiveness, enthusiasm, self-knowledge, expertise, courage, energy and professionalism in their work practices.

Leaders bring us together to create the type of Department we want. Leaders engender our clients' and stakeholders' confidence and trust in us, and extend our influence.

Strategies to Achieve Our Leadership Model

Accept the responsibility of leading.

Communicate openly, listen to staff, and value their contribution.

Treat everyone fairly and without bias.

Be visible and accessible to staff and each other, as well as to clients and other stakeholders.

DRAFT

Capitalise on the diversity of all staff, and provide support, recognition and feedback.

Make, communicate and implement timely decisions.

Set clear and measurable goals, based on agreed values, clearly communicate them, and provide the support needed to achieve them.

Create an environment which supports teamwork and liberates, guides and empowers.

Lead by example, especially in managing healthy change, being willing to learn from mistakes, being receptive and responsive, and learning continuously.

Coach, enable, mentor, inspire and motivate, to achieve organisational goals.

Recognise the value of innovation and creating opportunities.

Focus the organisation on its clients, other stakeholders and the operational environment.

Senior executives aspire to this model and welcome feedback on their performance against it and suggestions for improvement.

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ATTACHMENT C

Key powers and responsibilities of Secretaries in a devolved APS

(excerpt: *The Public Service Act 1997 : Accountability in a devolved management framework*)

Improved Accountability

Secretaries will be more accountable for the exercise of their powers in that they will:

be appointed and terminated by the Prime Minister;

be accountable to their Ministers for the management of their departments;

be required to report to Parliament on Departmental outcomes;

be obliged to uphold the APS Values and Code of Conduct;

be bound by the Public Service Commissioner's Directions in such matters as merit, employment equity and grievances as well as by the provisions of the Workplace Relations Act;

provide staff with rights of review of employment decisions;

have to establish mechanisms to handle disclosures in the public interest (whistleblowing); and

have their employment practices monitored for the Commissioner's Annual Report on the State of the Service with the Commissioner having powers of investigation

Devolved Responsibility

Secretaries will have enhanced power

engage employees on behalf of the Commonwealth on either an ongoing or temporary basis;

negotiate pay and conditions at the agency level;

adapt job classification structures to the needs of the agency;

decide the conditions for engagement, advancement, promotion and transfer of employees;

set qualification requirements;

determine appropriate periods of probation;

establish training arrangements;

decide on what terms an employee may engage in other employment;

recognise and reward high performing employees;

adopt misconduct procedures;

establish internal grievance mechanisms;

retire an excess employee; and

select, engage, transfer or re-engage members of the SES.

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Accountability to the Minister

The Bill will both strengthen and enhance the role of the Secretaries and ensure their accountability for the considerable powers they will exercise. While their employment is the responsibility of the Prime Minister on behalf of the Commonwealth, Secretaries will be directly accountable for their performance to their Ministers. A Secretary will be expected:

- to be accountable to the Minister for the general working and for all the business of the agency, including its organisational and staffing structure;
- to advise the Minister in all matters relating to the agency;
- to agree with the Minister on agency priorities and performance indicators in accordance with government policies and directions; and
- to assist the Minister to fulfil his or her accountability obligations by providing information to the Parliament about the technical background to policies and their implementation and administration.

Accountability to the Parliament

Traditionally Secretaries are also accountable, through their Minister, to the Parliament and to the Australian people for the administration of their departments. However, under the new Act, it is proposed not only to provide Secretaries with far greater flexibility in the management of their departments but, at the same time, to improve Parliamentary scrutiny of the manner in which they exercise that power.

A Secretary will be expected:

- to manage the affairs of the agency in a way that promotes the proper use of the Commonwealth resources for which the Secretary is responsible;

DRAFT

to uphold public service values and conduct in the management of the agency and the delivery of government programs and services to the community;

to establish appropriate flexible employment and management arrangements that best serve the business of the agency and the needs of employees;

through the departmental Annual Report process, to identify the priorities agreed for their agency, the resources used for their achievement and the outcomes; and

to promote a culture of continuous improvement in the agency.

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ATTACHMENT D

PERFORMANCE MANAGEMENT : GOOD PRACTICE

To achieve good practice in performance management Secretaries and agency heads should address the following framework principles:

performance information is clearly linked to the objectives and intended results of programs and activities, and enables a ready assessment of program performance in terms of effectiveness, efficiency, and service quality;

as far as possible, programs and activities have a core set of performance information that meets multiple purposes; at a minimum, performance information for such purposes is consistent and complementary;

the continued appropriateness of performance information is regularly assessed;

responsibilities for performance management are clearly defined and understood, including where services are delivered under agency, outsourced or other third party arrangements;

performance *planning* and performance *results* are directly linked, involving the establishment of clear performance targets (published for areas where Government policy is in the public domain) and demonstration of the results actually achieved - both internally (eg for each appropriate responsibility unit) and externally (currently through portfolio budget statements and annual reports);

ongoing performance monitoring and periodic program evaluation are balanced and used appropriately: program performance is monitored on an ongoing basis and complemented by periodic program evaluation, generally within at least a five year cycle;

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performance management activity is planned and integrated with corporate and business planning:

- performance management activity supports the systematic review of agency activities through the Performance Improvement Cycle (PIC), and the application of specific improvement strategies such as Competitive Tendering and Contracting (CTC);

- Portfolio Budget submissions and new policy proposals are presented in the context of the portfolio's overall objectives and strategies and supported by performance information;

- the outputs and outcomes of agencies are clearly specified with outputs costed; and

- non-financial and financial performance information are integrated for management purposes and external reporting.