AUDITOR GENERAL'S REPORT

Public Sector Performance Report

Report 1 - May 2005

AUDITOR GENERAL for Western Australia

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Enable the Auditor General
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LEGISLATIVE ASSEMBLY

THE PRESIDENT
LEGISLATIVE COUNCIL

PUBLIC SECTOR PERFORMANCE REPORT

I submit to Parliament my first Public Sector Performance report for 2005 pursuant to section 95 of the *Financial Administration and Audit Act* (FAAA). This Report contains five items that have arisen from work undertaken pursuant to section 80 of the FAAA.

D D R PEARSON
AUDITOR GENERAL
4 May 2005

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Auditor General's Introduction

As this is my first report to the 37th Parliament, it is timely to remind Parliament of the pattern of reports that will be tabled in coming months.

Public Sector Performance Reports such as this report contain a number of separate examination topics that typically assess whether key areas of public sector operations are reliable and following accepted practice. They largely focus on regulatory compliance, probity and the adequacy of management controls over program delivery and the operation of administration and computer systems. I intend to table two to three such reports each year.

Performance Examination Reports deal with a single topic and provide an audit analysis of agency performance from an efficiency and effectiveness perspective. I seek to table approximately six of these each year.

Audit Results Reports summarise opinions issued in respect of financial statements and controls, performance indicators and related legislative compliance. The next of these is due to be tabled later this month covering public universities and the TAFE Colleges which have reporting periods ending on 31 December. This report will also cover other audits finalised since 1 November 2004 which was the cut off date for the November Report. The vast majority of agencies covered by the November Report have reporting periods ending on 30 June.

In addition, I table an **Annual Report** on the performance and operations of the Office of the Auditor General. I aim to table this Report by the end of August each year.

For those wanting more information about how I address the mandate provided to the Auditor General by Parliament, a copy of my Audit Practice Statement (last updated and tabled in Parliament on 3 December 2003) can be accessed from our website at **www.audit.wa.gov.au** or a copy provided on request.

Software Licensing

Overview

Western Australian (WA) Government agencies are heavily dependent upon computers for their operations, with an estimated 120 000 personal computers (PC) in use. Integral to computers and related infrastructure such as servers, is the operating system and application software that runs them. An estimated $43 million was spent on software by WA government agencies in 2002-03 (according to the Australian Bureau of Statistics).

Software constitutes a form of intellectual property, the rights to which are protected by the Commonwealth's *Copyright Act 1968.* Breaches of the Act can result in large fines and/or imprisonment. Aside from the need to comply with software license requirements, agencies also need to ensure that they effectively manage their license requirements as this can potentially save millions of dollars per annum. This examination set out to raise awareness of these issues through a review of practices at four agencies.

Key Findings

- Whilst the management of core software licenses was adequate, the need for better management of non-core software was evident with all four agencies having unauthorised software installed. This is inconsistent with Commonwealth legislation and government policy and creates the risk of legal action by vendors.
- All four agencies could purchase software more economically. Potential savings on just one product range across the four agencies was estimated at $155 000.
- Downloading of software products from the internet was common at three agencies. Such practices risk agency exposure to viruses, security attacks and the installation of unauthorised software.
- Software licensing policies at three of the agencies was adequate. Good policies provide direction and a basis for self assessment and accountability.

- Three of the four agencies needed to improve:
  - the procedures by which they retain and record their software license certificates
  - security over software activation codes and installation discs
  - the monitoring they undertake of their use of software and compliance with license conditions. Focused use of automated monitoring tools would save millions of dollars.

What Should Be Done?

Agencies should:

- ensure that they have only authorised software installed. This should be done systematically such as by using automated software management tools and complemented by spot checks and internal audits.
- ensure software policies and guidelines include reference to copyright laws, purchasing procedures and include rules for copying and installing software.
- specifically allocate responsibility to advise and inform staff on software issues and rigorously manage software purchasing.
- keep software registers up-to-date and keep software certificates, activation codes and CDs properly managed and secured.

Background

Good software management entails knowing what software the organisation needs, procuring that software economically and ensuring that the organisation only installs and operates authorised software.

Procuring and then managing software can be a difficult and specialist task. Software vendors can offer multiple solutions to meet client requirements. Knowing what constitutes a good long term deal requires good research to understand the agency's needs as well as the exercise of good negotiation skills.

Thereafter, appropriate management effort is required to ensure the organisation complies with the conditions of license. Software constitutes a form of intellectual property, the rights to which are protected by the Commonwealth's *Copyright Act 1968.* Breaches of the Act can result in large fines, imprisonment of up to five years and/or in software vendors taking civil action with potential financial costs as well as the loss of credibility from adverse publicity.

Research into software piracy in Australia has found that:

- it is higher than other equivalent markets
- software manufacturers lose almost $300 million a year and distributors and resellers $286 million a year in sales
- stifles local software development
- costs the Australian economy $1 billion a year plus flow-on effects
- costs jobs.

The fight against software piracy is growing. Recently, a major software company announced on its Australian web site that it would be commencing software audits on existing clients. In Singapore, The Straits Times newspaper recently reported that an anti-piracy group has doubled its reward to $20 000 Singapore dollars (AUS $15 460) for people who report Singapore companies for using illegal software. The article stated that rewards were paid out *"fairly regularly"*.

The peak body for software vendors in Australia is the Business Software Association of Australia (BSAA). The BSAA encourages the reporting of illegal use and runs education campaigns, provides guidance on software compliance and conducts research into the illegal use of software in Australia.

What Did We Do?

The examination assessed software management at four agencies. The nature of the four agencies varied considerably in terms of size and disbursement of staff and computers. The smallest agency we examined had approximately 950 computers situated in one location. Two agencies had over two thousand computers each spread across several sites. The fourth agency had approximately 1 200 computers across numerous locations.

The examination assessed whether the agencies:

- had adequate security policies and procedures
- had adequate procurement procedures for the purchase of software
- had appropriate systems or registers to manage software licenses, certificates and CD media
- were adequately monitoring installed software and software usage
- had sufficient software licenses for all installations. In assessing whether the four agencies had unauthorised software installed, we either used the agencies own automated monitoring tool or installed and ran our own.

What Did We Find?

Policies, Guidelines and Staff Awareness

The WA Government's policy is that *"illegal or unauthorised software is not to be used for State Government agency business or on State Government equipment. Unauthorised copying or distribution is prohibited".* Agencies are expected to comply with this policy and to have their own supporting policies and guidelines in place.

The examination found that one agency had good policies and that the policies at two agencies were adequate. Those of the fourth agency were poor. The policies of all four agencies were readily accessible to staff through their intranets.

A general level of awareness about software copyright issues was found amongst staff at all four agencies. However, we did find that staff were often not aware of the complexities of license conditions that can make compliance a challenge or of the sorts of controls that should be in place to ensure compliance. Agencies should address these issues.

Policy elements that we were expecting to see and which were largely in place at one agency were:

- staff to be informed at induction about the agency's software rules, including an explanation about copyright laws and the consequences of illegal software installation.
- a requirement for staff to sign an acknowledgement that they understood the policy before they were given authority to sign on to the network. The staff at the agency with comprehensive policies were reminded of their commitment each time they logged on to the network and at that point were asked to re-affirm their understanding of the policy.
- a statement on the process to be followed for purchasing and installing software on agency computers. The agency with comprehensive policies required all purchases and installations to be approved by the IT Manager.
- a commitment to strong controls and regular monitoring of software compliance to prevent the making or use of unauthorised software copies.
- a requirement for software to be properly disposed of when no longer needed.
- formal Corporate Executive approval of the policy.

All agencies committed to improving their policies and to implementing the changes.

Procurement of Software

The examination found that agencies were complying with open and competitive purchasing policies when procuring software. However, opportunity for more effective purchasing was evident at all four agencies.

Effective procurement can best be achieved when an agency has standard purchasing procedures that are known and followed by all staff. A centralised, easily accessible point of information, advice and expertise on software and its procurement is also important. The consequence from not following such practices is shown below:

❖ all four agencies were regularly purchasing hundreds of boxed products instead of taking advantage of lower costs that had been or could have been negotiated through volume purchasing agreements. Potential savings on just one product range across the four agencies was estimated at $155 000.
❖ only two of the four agencies had persons who were knowledgeable about the volume agreements and the contracts their agency had with vendors. The need for good understanding of agency requirements and of vendor contracts was demonstrated at one agency which purchased hundreds of an 'advanced' version of a particular software product but mostly installed only those components of the product that applied to the 'standard' version. Had the agency purchased the standard version, it would have saved approximately $40 000. Moreover, we found that the installation of the standard version was non compliant with the contract as it was not considered a 'prior version' of the advanced product.

The means by which agencies procure software is critical to them complying with software licensing laws and minimising costs. The purchase of insufficient licenses exposes agencies to risk of litigation whilst the purchase of unsuitable or too many licenses can have significant cost implications.

Software purchased for use in Government is procured in one of four ways:

- as a 'boxed product' purchased from a shop – provides for one installation. Boxed products are the most expensive way of purchasing software.
- via the internet – authorisation and codes for download of the software are provided to the agency through an email from the supplier. This method of procurement is usually not available for mainstream software products.
- under a volume agreements between the agency and the vendor. A volume agreement provides a license that authorises the user to install the software onto a number of machines. Volume agreements provide significant discount compared to boxed products with the size of the discount usually depending on the volume purchased.
- under a whole of government agreement. Microsoft is the only software vendor with which the WA Government has a whole of government agreement in place.

Agencies that wish to enter into high value volume agreements need to ensure that their representatives in the negotiation are well informed of vendor licensing models as well as the specific requirements of the agency. Vendor licensing models can be

extremely complex and agency representatives need to understand these as well as the volume and technical requirements of the agency so that contracts can be tailored to suit. Agency representatives also need to be skilled at negotiations as effective negotiations on volume agreements can save agencies significantly on the listed price of products.

Security of Software

Each agency must be able to prove its right to use each software product that its staff installs and has an obligation to secure each product against unauthorised copying or theft.

Software Registers

Of the four agencies examined, none had a comprehensive and up-to-date software register that provided an accurate record of software purchased and installed or could show whether any surplus licenses existed.

Ideally, software registers should record:

- the name and version of the software and whether it is covered under a volume agreement
- how and when it was acquired and purchased (freeware or developed in-house),
- the name of the manufacturer
- purchase information such as vendor name and order number
- asset number or software serial number
- user rights as allowed by the license
- the location and serial numbers of the computers on which the software is installed.
- whether the software agreement provides for version updates and technical support.

Secure Storage

Secure storage of software certificates, activation codes and computer discs is vital to preventing unauthorised distribution or copying of software. It is also important for back-up and for demonstrating user rights. The examination found that whilst certificates are adequately filed, agencies poorly manage the activation codes and discs.

Software is purchased in a computer disc (CD) format. The CDs are accompanied by certificates which prove ownership and activation codes (or certificate key). Installation of the software requires the input of the activation codes.

The use of a secure library system is the most effective method to manage software certificates, the CD media and the activation codes. Secure storage and controlled access to the CDs together with the recording of acquisitions are important to deterring or preventing unauthorised installation or theft.

Although all four agencies had some form of software library, a range of common weaknesses was evident. These included:

- staff often attached the activation code to the CD making unauthorised installation easier
- software was often seen scattered on desks rather than securely stored in the library
- the libraries were often unlocked
- access to libraries was not restricted to authorised personnel
- registers were not used in any of the agencies to record what CD was taken out of the library, by whom or when it was returned.

All the examined agencies acknowledged the need to improve their security over the CDs and certificates. One agency has commenced the selection of staff to manage the software library.

Monitoring of Software

Agencies should be monitoring their installed software to ensure that only authorised software is installed (either purchased or freeware). Monitoring also serves to emphasise to staff the importance the agency places on compliance with its software policies. Monitoring should be systematic and preferably include the use of automated tools complemented by spot checks and internal audits.

Automated Tools

Automated monitoring tools work through the network to identify the software installed on any machine and to compare this with authorised installations. They can also provide details of the use made of each software product so that an assessment can be made of the continued need for that product.

Two of the four agencies had software management tools in place that provided effective monitoring of usage and installations. However, one had not fully installed the software nearly 12 months after purchase. Of the other two agencies, one had an automated tool that was unsuited to the size of the organisation, whilst the fourth agency had an automated tool that was monitoring only 10 per cent of the agency's machines.

Internal Audits and Spot Checks

Of the four agencies examined, only one had undertaken both internal audits and spot checks in the last two years.

One other agency had conducted an internal audit though this audit was instigated by a vendor, the findings from which were a need to purchase additional licenses, to tighten controls, and to acquire an automated monitoring tool. At the time of our examination, the controls were still inadequate some 17 months after the internal audit was completed. An automated monitoring tool had been acquired but not fully tested and in any event was found by us to be unsuitable for the task.

Results From Our Use of Automated Tools

Automated tools complement the manual asset register by providing accurate information about actual software installations compared to authorised and purchased software. Automated tools also summarise the hardware on which software is installed and enables agencies to manage the installation of anti virus 'patches' and software upgrades.

The international research firm, the Gartner Group has estimated that implementing a system with the ability to discover and inventory the desktop PC can produce a cost reduction of US$220 per machine each year. If such a situation broadly applies in the WA government environment, the potential saving is estimated to exceed $10 million annually.

The examination found that all agencies had software products installed for which appropriate licenses could not be found.

Our reconciliation between licenses held and installed software identified a number of common concerns:

- a shortage of licenses for professional type software such as engineering or graphical software. Licenses were being purchased, but not always enough to cover the eventual number of users, pointing to a need for agencies to better forecast actual requirements.
- non-compliance with license conditions caused by a lack of agency understanding of vendor license conditions:
  - misunderstanding of what a 'site license' provides. Some site licenses entitle each user on the network to install the software, while others are restricted to a specific number of installations.
  - differences between 'concurrent' and 'named user licenses'. Concurrent licenses restrict the number of users but allow the software to be transferred amongst users. Licenses issued on a 'named user' basis are non transferable and can only be used by a particular person.
- a lack of staff appreciation of the risks from installing downloaded internet software. Only one of the four agencies had installed filters to prevent staff from downloading programs from the internet. Consequently, this agency was able to reduce its exposure to viruses, security attacks and unauthorised installation of software. More than 15 per cent of the unauthorised software was downloaded off the internet (not freeware).

  Two particular internet download risks were noted:

  - downloaded 'spyware' was evident across the audited agencies. Spyware is software that aids in gathering information about a person or organisation without their knowledge, and can relay this information back to an unauthorised third party. At one agency a freeware product (a diary manager) had been downloaded by 31 staff who accepted a vendor agreement that allowed specific access to their desktop and eventually to the agency network. Close reading of the terms and conditions of the agreement to download the freeware should have revealed to the staff the implications of installing the software.

- continued use of 'trial before buy' software after the trial period has ended without acquisition of a license. Some products allow customers to continue to use these products after the trial period elapses but require that the user forward a license fee to the vendor.

The examination also found that only two of the four agencies had implemented a Standard Operating Environment (SOE). An SOE is a list of approved software operating systems and applications that an organisation has sufficient licenses and resources to manage – new machines are delivered to the users built to that standard.

- an SOE helps agencies manage those applications which are licensed on a named user basis
- an SOE can reduce Help Desk cost considerably, as these staff need not be familiar or be dealing with numerous other software products, versions and functionality.

Conclusion

Opportunity for improvement of software management was evident at all four agencies. The areas requiring improvement were consistently evident. We have summarised (below) these common issues to help all agencies to determine if they are following good practice.

Awareness and understanding –

- clear definitive policies that reflect the implication of poor software management
- consistent practices across all divisions of an agency
- management commitment to appropriate installation and monitoring procedures
- staff education about the need for software controls
- some expertise within an agency on software models, license conditions and software negotiation.

Procurement –

- comprehensive and clear policies beyond standard government policies
- budgeting that is based on forward planning of software needs

- an acknowledged central source of advice and expertise on software procurement
- good internal communication about negotiated volume agreements
- coordinating purchases to take advantage of savings available under contracts
- the taking advantage of upgrade opportunities at discounted prices
- avoidance of surplus licenses
- established process of ordering new software
- linking of purchases to accounting, asset management and licensing systems.

Record keeping –

- retaining and securing the licenses (registers and files)
- a uniform filing system throughout all divisions of an agency
- recording of key information to support procurement and security.

Security of Software –

- use of secured fireproof cabinets
- libraries that are restricted to authorised personnel
- recording of who takes out what and when.

Monitoring of software usage –

- selection of automated monitoring tools that are suitable to the agency profile
- use of automated tools to assess software usage
- regular spot checks and internal audits to monitor installations and encourage staff commitment to agency policies.

Regulation of Incorporated Associations and Charities

Overview

Incorporated associations and charities are an integral part of the Western Australian community. Over 18 000 such organisations are registered in Western Australia. It would be difficult to find someone who has not been touched by one of these organisations, either through sport or special interest activities or through the donation of money, receiving of benefits or working as a volunteer. Government regulation is important to maintaining public confidence in the operations of these groups.

The Department of Consumer and Employment Protection (DOCEP) administers the relevant legislation at a cost of about half a million dollars per year. A Charitable Collections Advisory Committee (CCAC), established under legislation, assesses charitable license applications and makes recommendations to the Minister.

Key Findings

- Legislation governing associations does not require annual reporting to DOCEP. Consequently, the Department has only limited capacity to ensure that associations are operating legitimately and in accordance with the legislation.
- DOCEP does not know how many of the 18 000 registered associations are still operating. Recent steps by the Department to clarify this situation suggest that at least a third may not be operating.
- Legislation governing charities is not clear about the accountability information that must be submitted by charities. As a consequence they often provide only limited accountability information to DOCEP about how their donations are utilised. This restricts the capacity of DOCEP and the CCAC to monitor effectively the charitable activities of these organisations.
- DOCEP's procedures can be improved in the following respects:
  - assessment of applications for incorporation
  - ensuring association's surplus assets at wind-up are distributed in accordance with legislation
  - obtaining evidence during complaint investigations to show associations are complying with requirements or have taken corrective action.
- DOCEP has proposed legislative changes to enhance its ability to regulate the activities of associations and charities.

What Should Be Done?

DOCEP should:

- more reliably establish that the surplus assets at wind-up are distributed in line with the requirements of the legislation.
- strengthen internal procedures over the assessment of incorporation applications to ensure associations have rules that protect members rights.
- obtain more comprehensive evidence from associations during complaint investigations to show they are meeting legislative requirements or have taken corrective action.
- better analyse the data currently obtained from charities and focus monitoring on promoting compliance with the legislation.

Background

Incorporated associations and charities, which are both not-for-profit institutions, strengthen local communities by providing opportunities for people to participate in and provide community based activities and services. Appropriate government regulation encourages and supports these institutions by protecting the interests of the public and those involved and ensuring they work effectively and with integrity.

In 1999-2000, not-for-profit institutions contributed $21 billion to Australia's Gross Domestic Product (GDP), though this increases to $30 billion (4.7 per cent of GDP) when the value of volunteer services is included (Australian Bureau of Statistics). In 2000, Western Australia (WA) had nearly 430 000 volunteers that provided over 70 million hours of free service to these institutions. WA's volunteer rate represented 32 per cent of the population and was the fifth highest rate across Australia. The rate for the non-metropolitan area of 45 per cent was the highest. Statistics published by the Australian Tax Office show that Western Australians made $73 million in tax deductible donations in the 2002-03 tax year. In 2004, collections in the streets of Perth alone raised $1 million.

What Did We Do?

The examination assessed whether WA's incorporated associations and charities are adequately monitored and controlled. This involved assessing the regulatory operations of DOCEP including:

- incorporation and wind-up of associations
- the licensing process for charities
- how associations and charities are monitored
- complaint and investigation procedures.

What Did We Find?

Incorporated Associations

The *Associations Incorporation Act 1987* (the Act) and *Associations Incorporation Regulations 1988* provide an opportunity for WA not-for-profit community based groups such as clubs and societies to incorporate. This creates a legal entity separate to the individual members and gives the association the power to enter into contracts, own land, operate a bank account, borrow money, sue or be sued and possibly take advantage of tax concessions. There are currently over 18 000 associations incorporated in WA.

Powers given under the Act to The Commissioner for Fair Trading have been delegated to DOCEP. They include:

- assessment of applications for incorporation including ensuring that the proposed rules to govern the day to day management of the association meet the requirements of the Act
- process any changes of name or rules
- investigate suspected breaches of the Act
- administer the wind-up process if associations decide to cease operations.

However, the legislation does not allow DOCEP to investigate breaches of the association's rules, intervene in internal disputes or provide legal advice.

DOCEP recently reviewed the legislation and drafted a Government Position Paper (August 2004) which is now being finalised into a draft bill by the Parliamentary Counsel. Proposed changes are designed to achieve a balance between the need for reasonable regulation and for associations to be able to function autonomously and effectively.

The Incorporation Process

The rules of an association define its purpose and how it is to be managed. Schedule One of the Act works to protect members rights by outlining particular matters that the rules must address (refer Table 1). DOCEP's standard application form and the assessment sheet it uses to review an association's rules ensure that Schedule One requirements are met. However:

- the Act requires the application form to be signed by only one member of the association's management committee. DOCEP have advised that proposed

legislative changes will address this by requiring the signature of six members. This will provide greater assurance that the association exists and is legitimate. As an interim measure, DOCEP in August 2002 modified the current regulated 'Application for Incorporation' to require the name and address of six members.

- testing of 10 per cent of the 589 associations incorporated in 2004 showed that 25 per cent did not have rules that covered all items required by Schedule One of the Act. Fifty nine per cent of the missing items related to how casual vacancies on the management committee arise and how they are filled. This could be a contentious area in the management of an association. DOCEP have advised that subsequent to our examination they have made improvements to their process.

Its name
Its objects or purposes (must be not-for-profit – no property or income to be paid to members)
Qualifications (if any) for membership
The register of members
Entrance fees, subscriptions and other amounts (if any) to be paid by members
The name, constitution, membership and powers of the committee or other body having the management of the association and provision for:
a. *the election or appointment of members of the committee*
b. *the terms of office of members of the committee*
c. *the grounds on which, or reasons for which, the office of a member of the committee shall become vacant*
d. *the filling of casual vacancies occurring on the committee*
e. *the quorum and procedure at meetings of the committee*
The quorum and procedure at general meetings of members
The time within which, and manner in which, notices of general meetings and notices of motion are to be given, published or circulated
The manner in which the funds of the association are to be controlled
The intervals between general meetings of members and the manner of calling general meetings
The manner of altering and rescinding the rules and of making additional rules
Provisions for the custody and use of the common seal
The custody of records, books, documents and securities
The inspection by members of the associations records and documents

Table 1: Matters that must be provided for in the rules of an incorporated association as per Schedule One of the *Associations Incorporation Act 1987*

Monitoring of Associations

Associations are not required by legislation to regularly report to DOCEP. As a result, there is limited opportunity for DOCEP to monitor association activities once they are incorporated. This is in contrast to other Australian states which have legislative requirements for an association to report to the administering department on an annual basis and to submit annual audited accounts.

WA legislation limits monitoring to:

- processing forms to change an association's name or rules
- applications to voluntarily wind-up
- the investigation of any complaints.

In 2004 less than 10 per cent of associations had contact with DOCEP. Such minimal contact has over time, resulted in DOCEP not knowing the operational status of many of the registered associations. To correct this situation, DOCEP initiated a project in 2004 to establish every association's operational status. To date they have confirmed 8 400 associations are still operating but are uncertain as to the status of over 9 000.

DOCEP considers that a lack of two-way contact, particularly in regard to the current mailing address of associations limits the compliance monitoring they can do and their ability to keep association members informed of their obligations under the Act. A Victorian Government review of its association legislation reported in 2004 that *"Committee members are often unaware of their obligations under the Act and, in particular, the need to follow the procedures in the associations' rules or constitution"*. To overcome this, DOCEP has taken a number of steps to educate and inform association members:

- key information is prominently listed on DOCEP's website and is provided in information packs
- newspaper advertisements
- regional and metropolitan education sessions. Twenty-one such sessions were held in 2004 with an average of 12 attendees per session. Attendee feedback noted that direct mail outs were the most effective mean of promoting attendance.

The level of financial accountability shown by the management committee to the members is limited. Although accounts are required to be presented at the annual

general meeting, unlike other Australian states there is no legislative requirement for these to be audited or to be submitted to the regulating authority. The Commissioner can however direct an association to produce them where there are concerns about the management of the association. DOCEP has advised that this has occurred on eight occasions in the past three years.

DOCEP is aware of two associations currently being liquidated with a combined deficiency of $186 000. One of the liquidator's reports noted that because the association failed to maintain adequate books and records it was not aware it was insolvent and continued to operate for a year. Audited accounts would provide members with an increased level of assurance that the accounts show a true and fair view of the association's financial transactions and position.

DOCEP advised that proposed legislative changes would strengthen its ongoing monitoring of associations by:

- requiring each association to appoint a public officer responsible for submitting to DOCEP an annual return stating the associations contact details, its annual turnover and net assets figures
- implementing a three tiered system of financial accountability that requires all association accounts to be audited and for the auditors statement to be presented to the members at the annual general meeting. The tiered system would ensure that associations at greater risk from financial irregularities meet higher financial accountability requirements.

Investigating Complaints Made About Associations

DOCEP received 43 complaints about associations in 2004. DOCEP has detailed policies to cover the receipt and investigation of these complaints. However, the investigative process needs to be improved to ensure that there is clear documentation to support conclusions that associations were complying with requirements or to show that the associations had taken the corrective action required by DOCEP.

Analysis of the 36 complaints that were resolved during 2004 showed:

- 18 were either not upheld or could not be investigated as they related to internal disputes about which DOCEP cannot get involved
- 15 resulted in corrective advice
- two resulted in formal warnings
- one could not be investigated due to the statute of limitations.

On three occasions DOCEP has successfully prosecuted management committee members covering eleven counts of failing to hold an annual general meeting; refusing to produce records; refusing to produce audited statements when requested by the Commissioner and failure to secure compliance with its obligations under the Act. A further three prosecutions are in progress.

DOCEP have agreed to increase the level of evidence obtained from associations when investigating complaints. Proposed changes to the legislation will also ensure internal disputes are resolved either via a dispute resolution clause required to be included in the rules or through the local courts.

Voluntary Wind-up of Associations

In 2004, 110 associations informed DOCEP of their decision to wind-up operations. Results from the operational status project indicate a further 164 have disbanded at some time in the past without informing DOCEP. As the project continues there are likely to be many more disbanded associations identified.

Being a not-for-profit organisation, members are not permitted to gain from their membership of the association. DOCEP's role in the wind-up process is to ensure that surplus assets of the association are distributed either to another WA incorporated association or for a charitable purpose.

Under the Act, DOCEP obtains only limited assurance that surplus assets are appropriately distributed. This comes in the form of a signed declaration from one management committee member:

- on the level of surplus
- that the committee and members will not profit from the wind-up and that the surplus will be distributed to another association incorporated in WA or for a charitable purpose
- that the surplus will be distributed in line with the plan approved by DOCEP.

Of the 110 associations who informed DOCEP of their decision to wind-up in 2004, 60 per cent had surplus cash assets ranging from $40 to $31 000 as well as vehicles and equipment. The remaining 40 per cent had no surplus.

As part of the operational status project, DOCEP sent a mail out to 1 750 of the 9 000 associations whose status was unknown. Results confirmed 386 were continuing to operate while 164 had ceased operating. No response was received from the remaining

1 200 associations. DOCEP intends to cancel the incorporation and attempt to identify the surplus assets of associations whose status cannot be confirmed, or whose status is confirmed as defunct.

DOCEP has advised that it will seek to increase the level of assurance obtained during the wind-up process including by requesting the receiving organisation to confirm receipt of the surplus.

Delegation of Authority

The Commissioner for Fair Trading has delegated the functions and powers provided to him under the legislation to DOCEP staff. Authority has been delegated to the eight staff who work in the area and to another 42 that work in related areas. DOCEP maintains a list of who has been delegated authority. However, staff are not required to formally accept the authority or acknowledge that they understand the powers. DOCEP have advised they are reviewing the delegation process to identify areas for improvement.

Charities

The *Charitable Collections Act 1946* and *Charitable Collections Regulations 1947* require any person that collects money or goods from the WA public for any charitable purpose to be licensed. Charitable purpose is defined as:

- affording relief to diseased, sick, infirm, incurable, poor, destitute, helpless or unemployed persons or their dependants
- relief of distress occasioned by war and the support of former members of the armed forces
- supply of equipment, comforts or conveniences to members of His Majesty's forces, or affording relief, assistance or support to persons who have been members or their dependants
- support of hospitals, infant health centres, kindergartens and other activities of a social welfare or public character
- any other benevolent, philanthropic or patriotic purpose.

Collecting money for purposes such as the environment; animals and research into human or animal illness are not captured by WA's legislative definition of charitable purpose, and therefore are not subject to regulation by DOCEP. Commercial fundraisers and fundraising consultants paid by charities to raise funds are also not included. Proposed legislative changes seek to address these anomalies.

The issue of a charitable license by the Minister is based on recommendations made by a five member independent Charitable Collections Advisory Committee (CCAC). DOCEP provides administrative support and advice to the CCAC. At the time of the examination, 544 charities were licensed in WA with 61 new organisations issued a license in 2004. Licensees included trust funds, limited companies, auxiliaries, foundations, committees, councils and associations.

The *Street Collection Regulations Act 1940* and the *Street Collection Regulation 1999* regulate collections that take place on Perth metropolitan streets. Street collection activities were carried out by 75 organisations in 2004.

The Act allows street collections to take place on 50 days throughout the year – traditionally a Friday. Organisations must apply to the Minister for a permit which is approved on the recommendation of the CCAC. The permit holder is only allowed to collect on the day allocated and only one appeal is allowed for each applicant due to the limited number of street collection days. Permit holders are required to submit a statement showing the moneys collected and administrative costs associated with collection. They are not subject to the same level of scrutiny as those applying for a licence.

Amendments to legislation are being considered. In August 2001 Cabinet approved the drafting of a Public Collections Bill. In June 2002 a discussion paper incorporating the Bill was tabled in Parliament. A period of public consultation followed with the resulting report released in February 2004. DOCEP has advised that the Bill is currently the subject of further redrafting. The aim of the proposed amendments is to establish a more comprehensive, transparent and flexible system of regulating the WA charitable sector. Currently there is much discussion in the not-for-profit sector surrounding the need for a national regulatory framework for not-for-profit institutions.

The Licensing Process

We found that the CCAC was provided with all the required information by DOCEP prior to making its recommendation to the Minister to issue or reject an application for a charitable collection license.

In 2004 the CCAC:

- assessed 71 applications from new organisations and 115 from those re-licensing
- requested further information prior to making a recommendation on 26 occasions
- rejected one application as the applicant could carry out activities under another organisation's license.

The Minister did not reject any of the CCAC recommendations though further information to support an application was requested on two occasions.

The licensing process is essential to maintaining public confidence in WA's charities. The public give money to charities with the belief that their donation will largely be used for charitable purposes, though donors rarely see first hand how the money is spent. The licensing process by which organisations are scrutinised before a license is granted provides some capacity to protect the public from fraudulent and misleading practices. Organisations applying for a license must provide the CCAC with particular information to enable assessment (refer Table 2). The CCAC members use their judgement to determine the suitability of applicants.

Recently the level of scrutiny applied to applicants has been increased with CRIMTRAC and Dun and Bradstreet background checks being conducted on the principal executive officers (president, secretary, treasurer, chairman etc). DOCEP on behalf of the CCAC have sought legal advice to develop a policy to deal with significant issues identified through these checks.

Information provided by applicants:

• Completed application form. Requires details of:
  ○ the charitable purpose for which the license is sought
  ○ fundraising activities that will be conducted
  ○ the organisations separate bank account and signatories
  ○ the organisations auditor and qualifications
• Completed Principle Executive Officer Declaration and Consent form and identity documents for each PEO
• Details of management committee members
• Certified copies of the certificate of incorporation and constitution (or equivalent)
• Certified copies of audited financial statements for the last twelve months
• Details of any other organisation operating in the proposed field of operation and whether they have been approached

Table 2: Information required from applicants applying for a license under the *Charitable Collections Act 1946*

Street Collections

Organised street collections are a common way for organisations to seek public donations. Currently, the *Street Collection Regulations Act 1940* places no restrictions on the purpose for which collected funds can be used. However, legislative changes are being considered to restrict the collector to raising funds for a charitable purpose as defined by the *Charitable Collections Act 1946.*

Collecting organisations are required to submit a street collection statement to DOCEP showing the gross amount collected and costs associated with the collection. This must be done within 30 days of the collection. However, we found limited analysis and reporting of these statements.

We noted that in 2004:

- 75 permits were granted for collections over 46 days
- just over $1 million was collected. Individual collections ranged from $221 to $227 202 with an average collection of just over $13 000
- $167 000 was donated to organisations not licensed under the *Charitable Collections Act 1946* and therefore not subject to the same scrutiny and annual reporting requirements
- administration costs for the collections ranged from zero to 47 per cent with the average being 11 per cent

- 64 per cent of street permit statements were submitted late with 43 per cent more than a month overdue
- only one complaint about street collection activities has been received in the past 18 months. The investigation resulted in corrective advice being given.

DOCEP has agreed that it would be worthwhile to provide the CCAC with information such as outlined above so that they can consider past performance of organisations applying for new street collection permits.

Monitoring of Charities

The examination found that current legislation is not clear about the level of detail charities must submit to the regulating body and that this affects DOCEP's and the CCAC's capacity to monitor the activities of these organisations. We also noted a need for charitable organisations to report in more a timely manner.

In 1995 the Industry Commission's report on Charitable Organisations in Australia reported that it was concerned that accountability to donors and the general public was inadequate in terms of the availability of easily understood information and the transparency of operations. Our testing of the information submitted by WA charities in 2004 indicated this is still an issue:

- 69 per cent did not disclose the source of donations received
- 42 per cent did not disclose the type of fundraising costs incurred
- 15 per cent did not make clear how the donations were expended.

The legislation requires charities to submit *an audited account setting out the money and goods so collected or received and a statement of particulars of the manner in which the same has been dealt with".* During the examination we, and subsequently DOCEP obtained legal advice that differed about the information that charities should be required to provide.

Our advice indicated the level of detail should be sufficient to demonstrate that donations are raised and spent in a manner that is consistent with the Act and in particular the grounds on which a license can be revoked. These are:

- that the funds were applied for the purpose for which they were raised
- an adequate proportion of the funds raised are spent on charitable purposes
- the remuneration paid to staff of a license holder is not excessive.

DOCEP's advice was that information included in accounts that conform to the Australian Accounting Standards and Australian Auditing Standards in respect of the revenue and expenses of the charity meet the requirements of the Act.

The National Roundtable of Non-profit Organisations (May 2004) indicated that accounts prepared under these standards *"do not serve information transparency or assist effectively in maintaining, enhancing or effectively monitoring the trustworthiness of non-profit organisations"*. This echoes concerns raised previously by the Industry Commission and others. DOCEP has agreed to resolve the differing legal advice and to determine the possibility of providing some clarification by amending the "*Charitable Collections Regulations 1947"*.

DOCEP and the CCAC share our view that the level of information submitted by charities should be improved. Ahead of any change to the legislation, DOCEP has developed other ways to increase accountability including annual office bearer and auditor statements, details of executive officers and a Voluntary Code of Practice for Public Fundraising that provides a recommended set of principles and guidelines to ensure accountability to donors. These include avoiding the use of general terms such as 'donations or fundraising', not aggregating results of different activities and separately listing the expenses for each type of fundraising activity. However, only 22 per cent of charities have adopted the Code.

Examination of the monitoring of charities also noted the following:

- DOCEP and the CCAC need to extend and formalise the indicators of performance for determining if the information reported by charities is cause for concern and, for referring matters to the CCAC. DOCEP review annual financial information against a checklist that includes assessing whether the charity is continuing to collect money from the public and whether it has a positive net worth. The CCAC review the financial information when submitted as part of an application for a new license or renewal of a licenses (three years later). In the intervening period, the CCAC will review the information if deemed necessary.
- charitable organisations are often not reporting in a timely manner. In the last 18 months, 18 per cent of charities submitted their audited accounts outside the legislative deadline of six months after the organisations financial year end. Audit testing of a sample of these overdue accounts found that on average they were

three months late despite receiving at least three reminder notices from DOCEP. The latest was seven months overdue whilst 84 per cent were late in two of the last three years. Prompt submission of the reports to DOCEP enables timely investigation of items that indicate possible improper use of funds or financial instability

Consistently late submission of accountability information by a charity could theoretically lead to financial penalties or a recommendation to the Minister to revoke the charity's license. However, consistently late submission of returns is not drawn to the attention of the CCAC.

As a result of our examination, DOCEP have advised they will formalise with the CCAC a process to report overdue returns. They will also establish an operating agreement with the CCAC to confirm expectations and responsibilities.

- substantiated concerns or complaints made to DOCEP against charities are rare. All complaints made to DOCEP in writing or by telephone are investigated. One written complaint was received in 2004. DOCEP advised that no telephone queries received in 2004 resulted in the identification of any bogus charitable activities and that only once has a collector without a street permit been identified.

DOCEP have advised that the legislative changes proposed in the Public Collections Bill would increase transparency and accountability. The changes will include:

- licensees to provide financial returns which include details about the proportion of the total public funds collected that has been applied to the stated purpose of the collection. This would aim to ensure that excessive amounts of donated funds are not lost through administration or other non-charitable costs of the licensee
- power for the Commissioner to refuse a license or application if he is satisfied that an insufficient proportion of funds raised by public collection is likely to be or is being applied for charitable purpose
- certain financial information of licensed charities to be made publicly available
- an increase in the level of penalties imposed for a breach of the legislation. Currently the maximum penalty is $100 (or $500 for a body corporate).

The Use of Consultants

Overview

Consultants provide professional management and technical advice across all aspects of government operation. Such expert advice does not come cheap. Government spends millions of dollars each year obtaining such advice. Therefore, it is important that consultancy services like any other service be obtained openly and competitively.

Government has also decided that it needs to be accountable and transparent about the extent that it uses consultants. Since 1994, a Premier's Circular has required agencies to report on a six monthly basis on their use of consultants and for this information to be collated by the Department of the Premier and Cabinet (DPC) for reporting to the Parliament.

In this examination we assessed whether three agencies were complying with State Supply Commission policies and guidelines when engaging consultants. We also assessed whether the cost of consultancies is being accurately reported to Parliament in accordance with the still current Premier's Circular.

Key Findings

- All three agencies were engaging consultants through open competitive tendering processes and benefits arising from their engagement were evident.
- More rigorous adherence to the definition and timelines of the Premier's Circular is required if the intended transparency and accountability benefits are to be realised:
  - services are included in the individual agency reports that do not fit the Premier's Circular definition of consultants. Testing of 405 consultancies reported for the six months to June 2003 indicated that 60 per cent fitted the definition whilst 27 per cent did not. Assessment on the remaining 13 per cent could not be made as the agency reports gave insufficient description of the service.
  - one of the sampled agencies under-reported by $1.2 million for the period July 2003 to June 2004 due to an administrative error.
  - DPC has since 1996 used a narrower definition of a consultant when collating the individual agency reports into the whole of government report to Parliament. Of the 405 consultancies worth $11.5 million we reviewed for the June 2003 reporting period, DPC only accepted and reported 85 (21 per

cent) worth $5 million. No authority for applying the narrower definition was available.

- agencies are generally not meeting the four week timeline for reporting to DPC. Thirty six per cent of agencies took eight weeks or more for the period ending June 2004.

- the last report to Parliament on the use of consultants was for the period ending June 2003 and was tabled on 10 March 2004. Assessment since 2000 shows that the reports on average have been tabled 12 months after the period to which they relate.

What Should Be Done?

The Department of Premier and Cabinet should:

- re-establish a single definition of a 'consultant' for use in the six monthly report to Parliament.
- hold agencies accountable for reporting within four weeks of the end of the six month period.
- arrange for the six monthly report on agency use of consultants to be provided to the Premier's Office in a timely manner for tabling in Parliament.

Background

Government agencies spend significant amounts of public money on consultants. The last Government report tabled in Parliament on the use and value of consultants by agencies stated that agencies spent almost $8 million from January 2003 to June 2003.

In December 1994, the then Premier issued a circular to agencies (Nº 45/94) requiring them to report every six months to their Minister on the number of consultants they have used and their purpose and value. The individual reports were to be collated into a whole-of-government report by (the now named) Department of the Premier and Cabinet for tabling in Parliament by the Premier. The circular stated that this was part of the government's commitment to openness. Subsequent governments have retained the circular.

A consultant is defined under the Circular "*…as a person engaged to provide professional, management or technical advice".* A consultant does not include persons engaged under a contract for service to provide for example, engineering, computing or human resource consulting services, or cleaning or gardening services. Nor does it include people engaged on a temporary or part-time basis to cover staff vacancies.

When engaging consultants, public sector agencies are generally required to comply with State Supply Commission (SSC) procurement policies and guidelines. The guidelines state that the engagement of consultants is appropriate where there is:

- insufficient or unavailable expertise in the relevant area within the public sector at the time of need
- a requirement for neutrality, impartiality and a high level of objectivity (external to the public authority or the public sector)
- a need to draw on expertise and specialised skills available only from external sources.

The guidelines also detail a checklist of the key elements in the process of engaging and managing consultants and the major steps in establishing sound and manageable contracts including the development of tender specifications.

What Did We Do?

We examined whether the following three agencies have accurately reported to their Minister on the use of consultants and in turn, whether DPC has accurately collated agency reports for tabling in Parliament. The three agencies were Office of Energy, Department of Justice and Department of the Premier and Cabinet (DPC).

We also conducted a review of these agencies compliance with State Supply Commission policies and guidelines for engaging consultants. The three agencies we reviewed accounted for 23 per cent of the reported number and value of consultancies for January to 30 June 2003. Our review focused on the following aspects of good practice for engaging consultants:

- planning – defining the need for a consultant and the intended outcome of the project
- advertising and appointment – ensuring that an open and transparent tendering process has been followed during the appointment of consultants
- contract management and evaluation – determining if the contracts have been appropriately monitored and evaluated upon completion.

The examination focused on the period from January 2003 to September 2004.

What Did We Find?

Reporting on the Use of Consultants

We found that adherence to a single definition of a consultant and more timely reporting is required if the transparency and accountability benefits intended by Premier's Circular 45/94 are to be realised. Our concerns with the implementation of the circular include:

- services are being included in the individual agency reports that do not fit the Premier's Circular definition of consultants. Testing of 405 consultancies reported for the six months to June 2003 indicated that 60 per cent fitted the definition. Twenty seven per cent did not fit the definition with agencies commonly reporting the provision of services by contractors in addition to the provision of management or technical advice by consultants. Assessment on the remaining 13 per cent could not be made as the agency reports gave insufficient description of the service.

- the Office of Energy – one of the three agencies we examined in detail only reported $1.7 million of $2.9 million of consultancies for the July 2003 to June 2004 period due to administrative error. Consultancies that had been included in previous reports to their Minister were not included in subsequent reports to their Minister even though they continued in that reporting period. The Office of Energy is taking corrective action and has sent an updated report to DPC.
- DPC has since 1996 used a narrower definition of a consultant when collating the individual agency reports into the whole of government report to Parliament. Of the 405 consultancies worth $11.5 million we reviewed for the June 2003 reporting period, DPC only accepted and reported 85 worth $5 million (21 per cent). No authority for applying the narrower definition was available.
- agencies are generally not meeting the four week timeline for reporting to DPC with 36 per cent taking eight weeks or more for the period ending June 2004.
- the last report to Parliament on the use of consultants was for the period ending June 2003 and was tabled on 10 March 2004. Since 2000, the tabling of reports in Parliament has taken an average of 12 months from the close of the six month period to which they relate.

The definition of a consultant for the purposes of agencies reporting to their Minister is set out in the Premiers Circular N^{o} 45/94. This definition was clarified in a 1996 circular to Principal Private Secretaries. The definition states *"A consultant is considered to mean any person engaged to provide professional, management or technical advice. It does not mean contractors who are engaged to provide a service. For example, it does not include the provision of computing services, secretarial personnel, cleaning or gardening contractors, or engineering services".*

The definition used by DPC since 1996 when compiling reports to Parliament states that a consultant is *"...considered to be any person engaged on a fee-for-service basis to provide strategic advice for Government to act on. It does not include contractors who are engaged to provide a service that doesn't involve the provision of management advice to Government. Nor does it include functional advice for agencies to act on such as reviews of departmental computing needs, management audits or tender assessments".*

Compliance

We found all three agencies had appropriate policies and procedures in place for engaging consultants. In all cases, the agency policies and procedures made relevant reference to specific State Supply Commission policies and guidelines.

Planning

Planning is an important part of any procurement process. State Supply Commission (SSC) guidelines recommend all consultancies be accompanied by documented justification outlining the need for the consultancy and its intended outcome. The level of detail required for justification should be commensurate to the complexity and cost of the consultancy. For example, all complex projects above $750 000 should have procurement plans. A procurement plan provides a framework for identifying procurement opportunities and benefits, options for achieving required outcomes, market capability, stakeholders, quality requirements, performance measures and risk management issues.

Our examination identified four consultancy contracts at the Department of Justice, totalling $1.06 million, for which there was no documented justification prior to going through the tendering process. Department of Justice has advised that in future the agency's procurement process will have a business justification for any procurement above $10 000. The other two agencies had prepared appropriate justifications for their use of consultants.

All agencies had consultancies above the amount of $750 000 which required procurement plans. All of these consultancies had and were satisfactorily using their procurement plans to manage the consultancy contracts.

Advertising and Appointment

All three agencies had competitive and transparent processes in place for the engagement of consultants. Typically this would involve clear job specifications, appropriate advertising of the need for a consultant, assessing submissions against predetermined criteria and documenting the selection process. Our finding that open and competitive processes were being followed is consistent with the results arising from recent SSC's compliance reviews of public authority procurement activities ('Health Checks').

All three agencies were complying with the government's required four purchasing methods. Agencies used different purchasing methods depending on the total contract value as outlined in the previous State Supply Commission policy and guidelines. The new threshold amounts for the purchasing methods were gazetted in July 2004 and are outlined in Table 1.

Purchasing Methods	Total Contract Value
Request for Quotation (RFQ) – process of inviting offers to supply goods or services – involves simple documentation and limited number of suppliers	$10 000 to $100 000
Expression of Interest (EOI) – invitation to suppliers to indicate their interest to submit an offer to supply goods or services	normally $100 000 or more
Request for Proposal (RFP) – public invitation to make offer to supply goods or services when the requirements are well defined but the process by which this is to be achieved is not well determined.	$100 000 or more
Request for Tender (RFT) – public invitation to make offer to supply goods or services supported by specifications and detailed documentation.	$100 000 or more

Table 1: Threshold amounts for different purchasing methods

Source: State Supply Commission

All three agencies had used both RFT and RFQ purchasing methods. We found all agencies conducted appropriate reference checks of the recommended tenderers and that no complaints about the process were made by unsuccessful tenderers.

We noted that 20 per cent of the contracts for consultants were sourced from the Mandatory Common Use Arrangement (CUA) for procuring Information and Communication Technology services in government. This is also consistent with government policy on increasing the use of CUA as a means to achieving savings within the public sector.

Contract Management and Evaluation

All three agencies had appropriately managed the consultancy contracts we reviewed. They had signed contracts in place, legal advice had been obtained in developing the contract shells and the contracts incorporated timelines as well as project outputs and outcomes.

Contract management plans had been completed for projects over the amount of $250 000 as required (at that time) by State Supply Commission policy and guidelines. Expert teams were used to assist agencies in providing strategic directions for the 30 per cent of projects over this amount. For example, the Office of Energy had also established project management teams to oversee the strategic direction of the projects. All consultancies reviewed also had an individual project manager who ensured that the required services were delivered.

We found that agencies were satisfied with the performance of 97 per cent of the consultancies reviewed.

Thirty three per cent of the sampled contracts involved variations to original contract specifications or payments. These variations ranged from 33 per cent to 50 per cent of the value of the contracts. In all cases the agencies had appropriately considered and documented their justification for agreeing to the payment of the contract variations. Where necessary, approval for payment of the variations was also obtained from the Department of Treasury and Finance and the State Supply Commission.

Management of Leave Liability

Overview

Annual and long service leave is a significant financial liability and workforce management issue for the WA Public Sector. At 30 June 2004, the Western Australian (WA) public sector had accrued leave liabilities of $845 million or about 16 per cent of the $5.4 billion public sector payroll for the same year. The Public Sectors total leave liability cost has increased since 2001 but this is due to an increase in wages and growth in staff numbers rather than an increase in average leave per full-time equivalent (FTE).

We last reported on the management of leave liability by the WA Public Sector in 1998. In this report we review current practices for leave management at eight government agencies as well as their compliance with relevant State Government policies and guidelines. We also analyse trends in leave liability across the WA Public Sector.

Key Findings

- Since June 2000, average leave accrual has fallen from 11.0 weeks to 10.5 weeks. This comprises long service leave which has fallen from 7.4 to 6.3 weeks and annual leave which has increased from 3.6 to 4.2 weeks.
- Our analysis indicated that the agencies that have effective strategies to match staff resources to agency service demands generally have lower leave liabilities. Two of the eight agencies reviewed had good strategies to match staff resources to agency service.

What Should Be Done?

Agencies should proactively manage their leave liability. This should extend to leave rostering and workforce planning to match service demands of the agency.

Background

The WA Public Sector had an accrued leave liability of $845 million in June 2004. This represents about 16 per cent of the $5.4 billion public sector payroll reported in the Government's Consolidated Financial Statements for the same year. Accrued leave liability is the amount that an agency would need to pay if an employee ceased employment. The value of leave liability has been increasing at about 4.5 per cent each year since 2000, after adjusting for inflation.

In September 1999, Premier's circular 21/99 reinforced the responsibility of CEO's to manage their agency's leave liability. This circular was rescinded in December 2002 and replaced by a Public Sector Policy Statement on Leave Liability Management. The policy statement requires agencies to develop and implement strategies to effectively manage leave liability. It also recognises the need to balance the operational requirements of the agency with recreational needs of staff.

The Public Sector Management Division (PSMD) of the Department of Premier and Cabinet annually produces the *Profile of the Western Australian State Government Workforce* which includes current and historic data on leave liabilities for all agencies. PSMD also periodically publish reports that focus on specific workforce issues. Their most recent detailed report on management of leave liability, in 1997, identified two fundamental reasons why leave liability increases if not managed effectively:

1. the deferment of leave (employees not taking leave once it has accrued)
2. salary changes, through increments, reclassifications, promotions and workplace bargaining, increase the value of previously accumulated leave.

An additional issue identified by the PSMD is the leave liability for different age groups of the workforce. The PSMD report states that, older employees are more likely to:

- seek deferment of leave until retirement
- be in more senior positions, therefore any leave that they accumulate is likely to cost more than younger employees
- have served many years in the Public Sector and accumulated multiple entitlements of long service leave
- terminate employment with the Public Sector in the near future meaning that agencies might have only a limited window of opportunity to reduce the liability.

Assessing the cost of leave to agencies is not straightforward. For example, cash costs are incurred when an employee leaves the Public Sector and receives payment for outstanding leave, converts accrued leave to cash, or is replaced while on leave. However, productivity costs are also incurred when an employee takes leave and is not replaced, or alternatively does not take sufficient leave and suffers 'burn out'.

Not all implications of leave liability are negative however. If employees do not take leave entitlements when they are due, they are effectively lending the agency the value of that leave. Effective leave management strategies require a balance to be found between cash costs and productivity costs for individual agencies. In developing strategies, agencies need to address barriers to taking leave, such as workload, availability of qualified relief staff and additional funding for higher duties and overtime.

What Did We Do?

Our objective was to assess current management practices for leave liability and to review compliance with relevant policies and guidelines. We undertook a detailed review of leave liability management at eight agencies and conducted a mail survey of a further ten agencies. We combined this with statistical analysis of Public Sector leave liability data to test anecdotal evidence of trends and issues raised in our review of agencies. Department of Treasury and Finance data for cost of leave liability includes corporatised bodies; however data from PSMD on accrued weeks of leave does not include corporatised bodies. Neither data set includes information for Universities.

The eight agencies chosen for detailed review were:

• Department for Community Development (DCD)	• Central West TAFE
• Department of Fisheries	• Challenger TAFE
• Botanic Gardens and Parks Authority (BGPA)	• Fremantle Hospital
• Public Transport Authority (PTA)	• Geraldton Regional Hospital

Specific areas addressed in our review included:

1. trends and benchmarks for leave liability across the WA Public Sector
2. leave liability management by agencies:
   - whether agencies have policies and procedures for leave management
   - were agencies proactively managing their leave liabilities, including:
     - conducting detailed assessment of leave liabilities
     - using leave rostering or other staff resource planning tools
     - providing flexible leave clearance strategies
     - forecasting leave liabilities
   - whether some staff are more likely to accrue leave than others and how this was managed.

What Did We Find?

Trends and Benchmarks for Leave Liability

State government policies and guidelines implemented since our 1998 report have had a mixed impact in reducing overall leave liabilities. Long service leave accrual across the Public Sector is lower on average than the optimal benchmark that we have calculated. However, some agencies still need to manage long service leave accrual more effectively. Annual leave accrual is greater than what we consider optimal and has increased over the last two years.

Since June 2000, the average amount of leave accrual per FTE has remained reasonably constant at about 10.7 weeks. Over that period, average long service leave accrual has fallen from 7.4 to 6.3 weeks, however average annual leave accrual has increased from 3.6 to 4.2 weeks.

We calculated an average of around nine weeks accrued leave per FTE should be achievable across the Public Sector:

- for annual leave, average accrued leave should be about two weeks per FTE. This is based on an annual entitlement of four weeks for the majority of Public Sector employees and a census date for leave liability of 30 June each year (mid entitlement). The benchmark assumes that staff take leave in the year it falls due.

- for long service leave we estimated a benchmark of around seven weeks average long service leave per FTE for the whole Public Sector. Our calculation is based on an entitlement of 13 weeks leave after seven years continuous service. We calculated the benchmark based on what the accrued long service leave of the Public Sector should be, given the current age profile of the WA Public Sector. Our benchmark assumes staff take long service leave in the year it falls due.

It should be noted that the benchmarks we have calculated are based on average figures across the whole Public Sector. Appropriate benchmarks for individual agencies will vary according to relevant awards and the length of service and age profile of individual staff within each agency. Agencies are in the best position to estimate their own benchmarks for leave accrual because of these varying factors.

Our analysis also confirmed anecdotal evidence that older employees typically accumulate more leave than younger employees. From our sample of eight agencies, all showed a statistically significant higher level of leave accumulation for employees aged over 45 years when compared to employees aged less than 45 years. In all cases the average annual leave liability for staff aged less than 45 years was less than the Public Sector average. However, the average annual leave liability for staff over 45 years was greater than the Public Sector average at two of the eight agencies we sampled. Reasons why older employees tend to accumulate more leave were discussed in the background to this report. Agencies should be aware of these issues when developing strategies to manage leave liability.

Figure 1 below shows trends in average leave per FTE, the change in the number of FTE's and the cost of current leave liability.

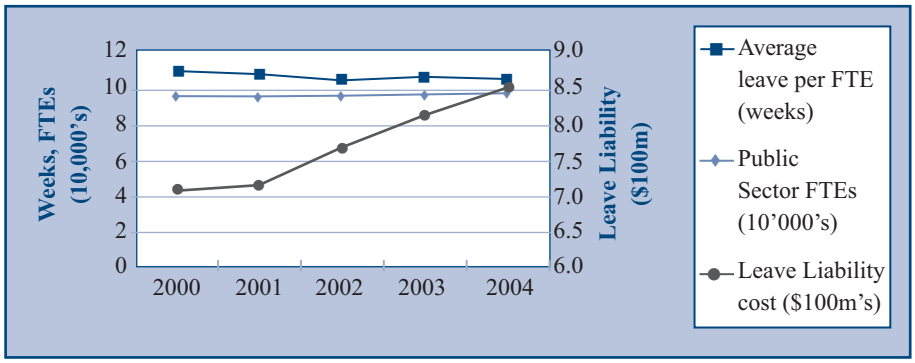

Figure 1. Trends in leave liability for the WA Public Sector

Source: Profile of WA State Government Workforce June 2004

Figure 1 illustrates that the average amount of leave accrual per FTE (top line of graph) has decreased from 11 weeks to 10.5 weeks since June 2000. At the same time, the number of FTE's employed by the public sector (middle line of graph) has gradually increased. Finally, the dollar value of leave liability (bottom line of graph), after adjusting for inflation, has increased at 4.5 per cent per year since June 2000. The growth in the dollar value of leave liability can be explained by a combination of wages growth greater than the average rate of inflation (3.5 per cent) and growth in the public sector workforce (1.3 per cent).

Management of Leave Liability by Agencies

We found that the agencies reviewed are tracking and managing leave liability to varying extents. This extends to clearly defined policies and responsibilities, regular reporting and in some cases setting reduction targets to be achieved over time. However, these techniques may not be sufficient to guarantee reduced leave liabilities (refer Table 1). Our analysis indicated that the agencies that actively manage their workforce to match staff resources to agency service demands generally have lower leave liabilities. For example:

- central West TAFE uses a consultative committee to develop an annual calendar that highlights 'suggested leave' periods for staff. In addition there is a 'formulaic approach' used to determine the lecturer to student ratio and allocation of staff to divisions within the college
- each Department within Geraldton Regional Hospital meets on a monthly basis to review and revise budgets for the number of FTE's (inclusive of leave) required to meet expected work demands.

Agency	Management Tools					Liability as % of payroll
	HR Information System and Interpretive Software	Frequency of reporting	Targets set for reduction	Monitoring of booked leave	Active workforce management	
DCD	✔✔	Monthly	✔	✔	×	18%
Fisheries	✔	6 monthly	✔	✔	×	15%
BGPA	✔	Monthly	×	✔	×	14%
PTA	✔	Monthly	×	✔	×	21%
Central West TAFE	✔✔	Bimonthly	×	✔	✔	11%
Challenger TAFE	✔✔	Monthly	✔	✔	×	16%
Fremantle Hosp.	✔	Bimonthly	×	✔	×	16.7%
Geraldton Regional Hosp.	✔	Monthly	×	✔	✔	11.5%

✓ = doing, × = not doing

Table 1: Management practices for leave liability at the eight sampled agencies

Source: OAG

Our data analysis also confirmed that leave accruals can vary significantly between different divisions or work groups of the same agency. These differences can be exaggerated by the larger annual leave entitlements provided under employment awards for some rostered and shift workers. For example, engine drivers at the Perth Transport Authority are entitled to an extra week of annual leave and have an average annual leave accrual of 4.8 weeks while the average annual leave accrual is one week less for Corporate Service staff. Similarly, Fisheries officers and technical staff at the Department of Fisheries are entitled to an extra week of annual leave each year and have average annual leave accruals of 3.5 and 2.6 weeks respectively compared to administrative staff that have 1.5 weeks. One of the agencies we surveyed had adopted a process of rotating staff from metropolitan to regional offices to avoid leave build up of staff in regional locations. They also used staff rotation as part of their succession planning process.

The differences between divisions within agencies, appears to be driven by the service demands of those particular divisions. This can often be exacerbated by difficulties in finding staff with specific skills to 'backfill' when others go on leave. This highlights the need for agencies to actively plan their workforce and leave requirements.

Overall, we found broad agreement amongst agencies on the opportunity to improve leave management. A number of agencies also recognised that leave could be used as part of succession planning by providing staff with opportunities to act in different or more senior positions. With the acknowledged ageing of WA's public sector workforce (55 per cent of the workforce will be over 45 years of age by 2012 as opposed to 41 percent in 1999), succession planning is becoming increasingly important.

Environmental Assurance on Agricultrual Research Stations

Overview

The 2003 Western Australian State Sustainability Strategy identifies a sustainable agricultural industry as a priority goal. The agricultural food and fibre industry generates $7 billion in economic activity.

The Department of Agriculture's 13 research stations, valued at $50 million, have an important role in supporting the agricultural industry. The research stations also have an obligation to develop systems and procedures to demonstrate that their research outputs and produce are safe and clean and that the land, water and air on the stations are appropriately managed in a sustainable condition.

Key Findings

- The Department of Agriculture has reasonable assurance strategies to demonstrate research outputs and station produce are safe and clean.
- These strategies are not designed to provide assurance that the environmental condition of the stations is sustainable in the longer term.

What Should Be Done?

The Department needs to further develop and evidence environmental assurance strategies. It has recognised that additional assurance is required and is developing options to demonstrate to customers and the public that:

- environmental issues do not adversely affect research projects
- neighbouring properties are protected
- use of the stations is environmentally sustainable.

Background

There is growing customer and public demand for assurance that food and fibre products are 'safe, clean and green'. This means safe to eat or use, free of contaminants ('clean') and produced in a way that sustains the environment (a 'green' agricultural industry) and achieves economic and social benefits.

'Environmental assurance' is a way to demonstrate that management practices achieve the level of environmental protection and the environmental sustainability expected by customers and the public. It is achieved by implementing a system that provides verifiable evidence that the condition of the environment is being sustained.

Environmental assurance is more convincing when evidenced and verified according to standards, codes of practice and other documented criteria for managing activities that impact the environment.

What Did We Do?

We reviewed the Department's systems for managing environmental issues on agricultural research stations. We did this at Head Office and at two research stations. This examination did not extend to an actual assessment of the environmental health of individual research stations.

What Did We Find?

Research Stations Are Important

The research stations are important assets for developing new crop varieties, animal products, agricultural and marketing practices (Figure 1).

The stations simulate different types of farming systems to test products and farming practices for example grain farms, cattle and sheep properties, vegetable and fruit orchards, dairies and piggeries. The Department spends some $10.7 million annually operating the research stations with approximately $10.2 million being raised from the sale of farm produce.

The research carried out on the stations, for nearly 100 years in some cases, has contributed significantly to WA's agricultural industry. For example, the experiments on research stations are responsible for around 85 per cent of all cereal crop varieties grown in WA. Cereal crops are worth $1.6 billion annually to the Western Australian economy.

Figure 1: Crop breeding and variety trials on the Geraldton Research Support Unit Annex

Source: Department of Agriculture

New agricultural practices to improve economic returns and protect the environment are also trialled on research stations. For example:

- revegetation, perennial grass pasture and continuous cropping systems have been developed to address salinity and water management on Esperance Downs research station. These are now in widespread use by farmers
- raised bed farming systems have been developed on research stations to improve soil structure, soil aeration and internal drainage to prevent winter waterlogging (Figure 2). The systems reduce undesired seepage of nutrients and recharge into shallow ground water systems and surface streams and improve crop yields and profitability of farmers.

Figure 2: Raised bed farming systems

Raised bed farming systems for Western Australia were first developed on the Mt Barker Research Station and then demonstrated through trial sites located near arterial roads in the southern part of the state.

Source: Department of Agriculture

There Are Many Environmental Issues

The environmental issues for research stations are similar to those affecting the agricultural industry. Key issues include the management of salinity and soil acidity, the control of weeds and the prevention of animal diseases. While some issues primarily affect the economic returns of specific crops and animal products, others such as acidity and salinity impact the resource condition of the research stations.

For example, nearly 40 per cent of the cleared land on Esperance Downs Research Station has been affected by salinity since the station was established in 1949. The Department has a long term management program of revegetation and drainage to address the problem. The program is also being used to inform farmers with degraded farms about the effectiveness of potential solutions.

The Department has completed a lime application program on the Esperance Downs, Newdegate, Katanning, Mount Barker, Wongan Hills, Merredin and Badgingarra research stations to restore an appropriate acidity – alkalinity balance of soils (Figure 3).

Soil acidification is a major environmental issue in WA. Two thirds of the soils in the agricultural areas of the State are acidic or at risk of becoming acidic. Long term agricultural production removes nutrients and increases acidity. Acidity lowers plant productivity and helps increase erosion and the spread of salinity by decreasing the water use of plants.

Figure 3: Application of lime to manage soil acidity

The Department has instigated a program of soil acidity remediation using lime applications on affected research stations.

Source: Department of Agriculture

Research station managers also manage environmental issues that specifically impact on the future use of the stations. For example, the Department sometimes experiment with the use of chemicals and genetically modified organisms to improve crop yield and control pests for the benefit of the agricultural industry (Figure 4).

Incorrect use of chemicals and genetically modified organisms can contaminate the air, soil, water, plants and animals. The community is entitled to a high level of assurance that the research stations are environmentally sustainable.

Figure 4: Managing genetically modified plant trials

The Department monitors compliance with documented procedures and controls for trials of genetically modified plants on research stations. Procedures and controls include fencing, signs and a nearby pit to dispose of plant material.

Source: Department of Agriculture

Environmental Assurance Is Being Addressed

We found that research station managers and researchers satisfactorily integrate the management of environmental issues with operational strategies. They do this by using standards and codes of practice to demonstrate that research outputs and farm produce meet production standards and the product quality expected by customers.

Key strategies include farm plans, the implementation of a quality management system compliant with the Safe Quality Food (SQF) assurance standard, chemical and biosecurity codes of practice and a research quality management system. The strategies include verifiable practices to manage environmental issues within the production and supply chain. For example:

- farm plans include guidance on what soil types and locations to use to minimise environmental impacts such as erosion
- research stations are implementing a system to comply with the requirements of the SQF standard to meet internationally recognised criteria for food safety and commercial product quality. The system includes procedures for managing environmental hazards including, for example, that the use of chemicals does not contaminate food and fibre produce, workers and the environment

- chemical and biosecurity codes of practice directly address environmental risks in the station operations (Figure 5)
- the research quality management system includes identifying, managing and reviewing risks and responsibilities including environmental and sustainability issues.

Figure 5: Entrance sign at the Manjimup Horticultural Research Institute

Biosecurity is an important component of the environmental management of farming operations.

Source: Department of Agriculture

However, we found that the Department needs to further develop and evidence its environmental assurance systems and procedures. The Department has accepted this finding and is developing two options to provide assurance that the environmental condition of the stations is sustainable in the longer term. The options are:

- a sustainability focused initiative for farmers that may also be suitable for research stations. The 'Farming for the Future' initiative is assessing whether a meta-accreditation framework can be developed to provide farmers with a certificate of sustainable practice that is linked to regional and state sustainability objectives. The initiative is expected to include indicators of the condition of a selection of environmental issues such as acidification, salinity and erosion.
- subject to study and assessment, the scope of certification obtained through the SQF assurance standard could be expanded to include an environmental

management and assurance component. The SQF program is operational at the Esperance Downs, Wongan Hills, Medina (the pork and horticulture programs) and Frank Wise Institute Kimberley research stations, the program is being implemented at the Avondale, Badgingarra, Gascoyne, Katanning, Manjimup, Merredin, Mt Barker, and Newdegate research stations.

The Department plans to advance the options sufficiently to assess their use on research stations during 2005.