2.6.3 Reporting requirements when an entity ceases to be part of the NSW Public Sector

Introduction

An entity ceases to be part of the NSW public sector when the entity:

- is liquidated (voluntarily or by creditors)
- is sold and transferred from the public sector
- ceases to exist due to the operation of a legal provision or instrument
- is no longer ‘controlled’ (as defined by Australian Accounting Standards) by a public sector entity.

In the NSW public sector, generally entities will cease to be a public sector entity as a result of a government policy decision.

When an entity ceases to be part of the public sector, the Auditor-General will lose the mandate to perform the audit.

Policies and guidance

1. **Engagement Controllers (EC) are required to complete the ‘Memorandum to accept that an entity will cease being an auditee of the Office’ as soon as they are notified that an auditee will cease to be part of the public sector and the Auditor-General will lose the mandate to perform the audit. The memorandum must be sent to the Quality and Innovation Group (QIG) for the Executive Director, Professional Services’ (EDPS) endorsement. This memorandum must include:**
    - **relevant background of the auditee**
    - **why the auditee will cease to be a part of the public sector and the impact on the Audit Office’s mandate**
    - **an analysis of the loss of control (when control is lost under Australian Accounting Standards)**
    - **the financial reporting and audit reporting requirements.**

2. **The EDPS will review the memorandum, and:**
    - **where the EDPS endorses the memorandum, forward it to the Head of Financial Audit for approval (and copied to the Deputy Auditor-General for noting)**
    - **where the EDPS does not endorse the memorandum, the EDPS will discuss the memorandum with the Head of Financial Audit and the EC.**

State entities

3. **Where a state sector agency or university subsidiary ceases to be a part of the public sector, the audit team must ensure that the auditee:**
   - **has, when required, prepared a final set of financial statements in accordance with section 7.7 of the *Government Sector Finance Act 2018* (GSF Act)**
   - **presents the financial statements to the Auditor-General for audit.**

4. **When a state government entity disposes of a subsidiary, the audit team must refer to the requirements in** Premier's Memorandum M2006-02 'Formation and Operation of Public Sector Subsidiaries'**, specifically Section 5.1** which states: 'A parent body must not dispose of an interest in a company which would result in that company ceasing to be a public sector subsidiary without the prior written approval of the Treasurer and the Portfolio Minister.' **Where this requirement was not complied with, the audit team must assess the impact on the audit and any reporting to those charged with governance and Parliament.**

Local government

5. Local councils do not require specific Ministerial approval to dispose of their interest in a council entity. **Audit teams must ensure that any disposal of council controlled entities have been appropriately approved through the council's delegation framework.**

Companies

6. **If the entity prepared financial reports under the *Corporations Act 2001* (the Corps Act), then the Auditor-General's resignation must be in accordance the Corps Act.** For details of the Auditor-General's responsibilities refer to the Companies Guidance Note and Notice of resignation as audit of companies and AFS Licensees templates.

Audit reporting

7. **Where loss of control of a state government entity is not a result of a government policy decision, the audit team should report, in a timely manner, the circumstances under which the entity ceased to exist, was sold, transferred or is no longer controlled for accounting purposes:**
   - **to those charged with governance (see Determining who are those charged with Governance of a Public Sector Organisation)**
   - **in the Statutory Audit Report to the Portfolio Minister.**

   The matter may also be reported in the Auditor-General's Report to Parliament.

8. The audit team may consult with QIG for any other reporting requirements to ensure the implications (if any) are considered.

9. When a final audit is required, the Engagement Closing Report should make clear that the Auditor-General is no longer the auditor, with an explanation as to why the Auditor-General is no longer the auditor e.g., because it has been liquidated, sold, ceases to exist etc. which resulted in a loss of control.

10. **In all instances, the audit team should have regard to the audit implications on the independent auditor's report and whether the going concern assumption is appropriate.**
11. **Where the entity ceases to be part of the Auditor-General's mandate but continues to exist, the auditor must advise those charged with governance of the entity (and any previous parent entity) that, without the necessary legal approval, the Auditor-General is precluded by section 38 of the *Government Sector Audit Act 1983* (in the case of state government entities) and section 425 of the *Local Government Act 1993* (in the case of local government entities) from providing any successor auditor (where appointed) access to any information obtained during the Auditor-General's term as auditor.**

Effective date

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