

# *Performance Audit Report*

**NSW Department of  
Transport**

**Management of Road Passenger  
Transport Regulation**

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# **Executive Summary**

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## Executive Summary

### **The Role and Impact of Regulation**

Regulatory activities of governments are typically not large in dollar terms, but they exist to ensure that services provided to the community do not fall below set standards. Good regulation may largely be invisible, even though its impact on the community's quality of life may be substantial. Road passenger transport regulation is a prime example.

### **Road Passenger Transport Regulation**

Road passenger transport covers buses, taxis, hire-cars and tourist vehicles. The regulatory goals to be achieved are set out in the *Passenger Transport Act 1990*. In pursuit of these objectives, the Department of Transport (the Department) carries out a substantial amount of activity. How well that regulation is managed impacts directly on citizens. Communities expect their regulators to behave efficiently, effectively and ethically.

### **The Performance Audit**

This audit examines the effectiveness and efficiency of the current approach to managing the task of regulation, so as to achieve the road passenger transport policies determined by the Government. The Audit Office is not entitled to question the merits of any regulatory policy of a government: that is an issue for the Parliament and the community.

### **The Audit Opinion**

**The Audit Office is of the opinion that the Department's levels of regulatory activity in respect of road passenger transport regulation may have exceeded optimum levels. The Department's current focus on processing activity limits the Department in achieving all of its desired outcomes. The Audit Office considers that a change in the approach to undertaking and managing road passenger transport regulatory activities would achieve better outcomes for the community and a better use of resources within the Department. The Audit Office believes that while there is scope to make some improvements from procedural changes, such changes would not be sufficient to generate significant improvements.**

**In respect of its regulatory assurance activities for road passenger transport, the Audit Office considers that the Department should move to an altered regulatory regime, whereby periodic (maybe yearly) certification of regulatory compliance would be the responsibility of the service providers, using accredited independent agents. This would enable the Department to change its role in road passenger transport to a more strategic approach, where it would licence and monitor the inspections of service providers, undertake in-depth audits where problems are indicated and educate the industry. The Audit Office believes that this altered approach can increase the effectiveness of regulation for road passenger transport, and can release valuable resources that the Department could put to more effective use.**

**The report also considers other functions of the Department in the road passenger transport area apart from its regulatory assurance activities and a range of other recommendations are provided which the Audit Office believes can lead to significant improvements in the Department's use of its resources.**

**The audit opinion is based on the following findings.**

**Too Busy to be Efficient and Effective?**

At present, the Department needs to contract, license, inspect, audit, consult and educate on a wide range of activities. There is a sense that the Department is overrun with detail and finds it difficult to keep on top of things. In many respects, the assurance obtained by the Department is limited. Despite extensive efforts by the Department, there are delays and backlogs that inevitably lead to frustration both within and outside the Department.

**Finding New Ways to Achieve Better Results with Regulatory Compliance by Operators and Drivers**

There is a growing trend, both in Australia and overseas, towards recognising that an alternative approach is to make licensing conditional on providing adequate evidence of compliance with licensing conditions. Service providers are required to obtain from an accredited independent third party a certificate of compliance. The Department's responsibility is to license and inspect the system of those who provide such assurance services.

It is considered that by moving towards such an approach, the Department would be freed from many of the routine regulatory activities that presently consume much of its resources but provide limited value. The Department could focus on regulatory activities that add maximum value and provide substantial impact.

For example, audits could be in more depth, but selective, based on identification of common operator and driver performance problems. Penalties for failing to comply with requirements could be set at appropriate levels to deter poor operators/drivers and encourage all parties to treat their responsibilities with due care and attention. The Department could enhance its education and advisory functions to assist operators to fully appreciate and address their responsibilities.

The Audit Office considers that overall such a regime would make the system more effective and better use limited Department resources.

**Making Processing More Efficient and Customer Focused**

There is also scope for a considerable amount of regulatory processing activity to be contracted out to an appropriate body whose structure and systems are set up for delivering such services to a widely distributed customer base. The Roads and Traffic Authority is one example of such a potential contractor that could be considered.

**A Significant Reform Challenge**

The shifts in approach that this report raises for consideration are not cosmetic or simple. The development of outsourced and co-regulatory arrangements needs to be developed so as to ensure that responsibility and accountability are not clouded, and that the Department's ability to assure outcomes is not impeded.

Care would be required in the crafting of new arrangements and legislation, and transition provisions would need attention. However, these are short-term impediments to any change of scale.

**Directions For Change**

This report seeks to contribute to the reform process by outlining some broad directions for change only. As always, the detail will present many challenges and this report does not seek to present a detailed blueprint. That is the next step, which is a challenge and a choice for the Department, the government and the industry to work together to achieve better outcomes for the community.

## Summary of Recommendations

### **Assuring Regulatory Compliance by Operators and Drivers**

1. Legislative reform be considered to:
  - Place requirements and costs upon operators for obtaining periodic (perhaps yearly) independent certification of regulatory compliance as part of licensing conditions
  - accredit independent third party bodies to undertake regulatory compliance certifications
  - set penalties for non-compliance with regulatory standards at sufficient levels to encourage operator and driver compliance.
2. The Department implement systems and procedures to validate the independence of, and the standard applied by, third party certifying bodies.
3. The Department redirect its efforts and resources in the area of road passenger transport so as to:
  - adopt a more strategic approach to assurance activities
  - increase its education and advisory activities.

### **Efficient and Economical Licensing**

4. The Department review existing licence/authority fees in the road passenger transport area to better equate to full cost recovery.
5. The Department institute a system of periodical renewals of licences that reflects the risks that individual operators and drivers pose.
6. The Department contract out some or all of the processing of driver authorities for bus, taxis and hire cars in NSW.
7. The Department build on the work already undertaken to utilise the potential of e-business systems to enhance efficiency and customer service.

### **Effective Licensing and Service Contracting**

8. The Department review existing approaches to applications for accreditations/authorities to ensure that they are generating the outcomes required of them.
9. The Department investigate the use of contracting for outcomes rather than outputs in implementing the School Student Transport Scheme.

10. The Department investigate how ‘cross-border’ commercial bus contracts can be more easily developed and implemented.

**Ensuring Probity in  
the Management of  
Regulation**

11. The Department update all policies and procedures that are concerned with ethical decision making and probity issues
12. The Department review the nature of tasks to be undertaken by temporary staff to ensure that they are not required to make decisions beyond their technical competence.

## **Response from the Department of Transport**

*The Department is grateful for the Performance Audit Report “Management of Road Passenger Transport Regulation” and for the opportunity to comment on it.*

*The Department is pleased to observe that the Review supports the co-regulatory policy for the bus industry. The Department’s experience is that a co-regulatory regime has generally been effective for the bus industry, but not as effective for the taxi industry.*

*The objectives of performance regulation relate to quality, safety, availability and accessibility of services. This outcome-based approach is reflected in recent reforms of taxi and hire car regulation and is contemplated in the Performance Assessment Regime currently under development for the bus industry.*

*The review recommends a number of measures aimed at greater efficiency in the process and moving more onus to perform on to industry. Such measures, where they are not already being implemented, need to be fully assessed and costed. Given the policy and stakeholder issues involved it is not appropriate for the Department to commit to them at this time.*

*In terms of cross boundary bus issues, it needs to be recognised that the Department has already succeeded in establishing cross regional bus services in a number of areas, and is establishing jointly with the Roads and Traffic Authority a network of bus only transitways in Western Sydney. It should also be noted that the threshold for country towns (of 7,500) under the current Service Level Policy is undergoing a major review.*

*It should also be noted that the Department is already addressing some of the issues raised in relation to the School Student Transport Scheme (SSTS). A review of the contracting systems for the SSTS and a major audit of the delivery of the SSTS are currently being completed. Further issues relating to SSTS must await the outcome of the current Inquiry into the Scheme by the Parliamentary Public Accounts Committee.*

*The review’s comments in relation to probity are noted. The Department places emphasis on ensuring that, in discharging its regulatory duties, due process is observed and all staff behave in an ethical manner at all times.*

*The Department appreciates the Audit Office's efforts in completing a Review that is both insightful and thorough.*

**(signed)**

**Jock Murray  
DIRECTOR GENERAL  
NSW DEPARTMENT OF TRANSPORT**

**Dated: 21 August 2000**

# **1. Introduction**

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## 1. Regulatory Activity Managed by the Department of Transport

### 1.1 Introduction

#### **Regulatory Activities Undertaken for Road Passenger Transport**

The Department is responsible for regulating road passenger transport in NSW. In doing this, the Department managed a wide range of regulatory activities in the 1998-99 financial year:

- 235 commercial bus contracts
- 1,833 non-commercial bus contracts
- 11,079 taxi operator accreditations
- over 78,000 driver authorities, including taxi, hire car, route bus and long distance tourist and charter coach drivers
- 21,061 renewals of driver authorities
- 2,057 taxi driver tests
- 389 audits of general transport operators, including buses, long distance coaches and other tourist vehicles
- 401 taxi operator audits.

The Department's Transport Services Division, involving approximately 90 staff in three locations, Parramatta, Newcastle and Wollongong, undertakes these activities.

The work carried out by the Department is quite different from that carried out by the Roads and Traffic Authority (RTA). The Department of Transport is concerned about the compliance of commercial passenger vehicles with commercial passenger vehicle standards (eg. the fitting of driver screens in taxis, the operation of flashing lights on school buses) and systems (eg. driver and maintenance records). In regard to drivers, the Department is concerned about drivers being 'fit and proper', so they have the relevant training and behaviours necessary to operate a commercial passenger vehicle. In the case of vehicles, the RTA is concerned with roadworthiness: the ability of a vehicle to meet the required standards in terms of mechanical safety and so forth. In the case of drivers, the RTA has a licensing system in place to ensure that drivers have the necessary skills to operate a private vehicle on public roads

**Other Recent Reviews and Reforms**

It is also noted that the Independent Pricing and Regulatory Tribunal of NSW released a report into the Taxi Cab and Hire Car Industries in November 1999. The Minister for Transport announced, on 6 July 2000, a number of changes that aim to improve the operational performance of the taxi and hire car industries. Amongst other things, there is to be a reorganisation within the Department and the creation of a Taxi and Hire Car Bureau. Extra resources are being made available to this function to increase the Department's focus on this area, including a greater shift towards cost recovery from the industries benefiting from the regulation.

In addition, the Public Accounts Committee of the NSW Parliament has recently commenced a review of the School Student Transport Scheme with a view to determining its appropriateness, efficiency and effectiveness in light of the high level of resources it consumes on an annual basis.

**Audit Criteria and Sources of Definition of Regulatory Policy**

Criteria employed by the Audit Office are set out in Appendix 1. In examining the regulatory activities undertaken by the Department the Audit Office had regard to:

- the Government's policy directions
- the *Passenger Transport Act 1990*, and associated Regulations, which the Department administers.

These are described below.

**1.2 Policy Directions**

**Policy Documents**

The Government's policy directions are contained in two major documents, *Action for Transport 2010: an Integrated Transport Plan* and *Action for Transport 2010: an Integrated Transport Plan for Sydney*. These policy documents set out a series of actions for the transport area with the aim of making 'travel throughout NSW modern, affordable, safe, efficient, accessible and leave a better environment for our children'.

**Transport Policy Outcome Intentions** Public transport is a significant part of the strategies underlying the government's policy directions. The policy statements note:

Good quality roads and a good public transport system are the life blood of Sydney, Australia's largest city. We all rely on buses, trains, ferries, taxis and private cars to get to work, school, sporting and arts events, shops, hospitals and to visit family and friends. Sydney's population has continued to grow, but so has our car use. Public transport has also continued to increase, but car use is growing faster, threatening air quality. If we continue at this pace, our air quality will deteriorate, affecting our lives and those of our children and grandchildren.

### **1.3 Road Passenger Transport Legislation and Regulation**

**What Does 'Road Passenger Transport' Mean?**

Road passenger transport in NSW covers taxi-cabs, hire-cars, route bus services, long distance bus services and tourist vehicle services. The Department administers the *Passenger Transport Act 1990*, and associated regulations.

**What are the Objectives of Regulation?**

In summary, the objectives of that Act pertinent to this audit are to:

- require the accreditation of the operators and drivers involved in public passenger services
- provide bus services to be operated under fixed term contracts with the Department
- encourage the provision of school bus services on a more commercial basis without disregarding the reasonable expectations of traditional service operators
- encourage public passenger services that meet the reasonable expectations of the community for safe, reliable and efficient passenger transport services
- encourage co-ordination of public transport services.

**What Does the Department do to Regulate?**

The Act and Regulations give the Department the statutory authority to accredit operators of buses, taxis and hire cars and to authorise individual drivers of buses, taxis and hire cars. Applicants for these accreditations and authorisations pay a fee to the Department for the processing of their applications. Department officers undertake audits of operators and drivers.

In addition to these accreditations and authorisations, the Department administers a series of bus contracts that provide route bus services and school student bus services to the NSW travelling public.

The Act also covers tourist vehicles. The supply of tourist vehicles and long distance bus services are essentially deregulated. While there are minimum safety standards covering these services, there are no regulations relating to routes covered, frequency of service, fares charged, number of operators in the industry and so forth.

### **1.4 Managing Regulatory Compliance**

**How is Compliance  
with Regulatory  
Requirements  
Currently Assured?**

To manage its obligations the Department undertakes a wide range of activities in the route bus, taxi-cab and hire car areas. These activities fall into two major categories:

- regulating entry and continued participation in the road transport passenger industry
- Regulating the day-to-day operational performance of the industry.

These activities are summarised in the following table. A more detailed discussion of the day-to-day activities involved in managing the industry follows.

| <b>Work Undertaken by the Department of Transport to Manage Regulatory Compliance</b> |  |
|---|--|
| <b>Industry Section</b>   | <b>Work Undertaken</b>   |
| <b>Route Bus Services</b>   | Accreditation of operators<br>Authorisation of drivers<br>Audit of operators<br>Audit of drivers<br>Contracts for non-commercial service provision<br>Contracts for commercial service provision |
| <b>Taxi-Cab Services</b>  | Accreditation of taxi-cab networks<br>Accreditation of operators<br>Authorisation of drivers<br>Audit of taxi-cab networks<br>Audit of operators<br>Audit of drivers                             |
| <b>Hire Car Services</b>  | Accreditation of hire-car operators<br>Accreditation of wedding car operators<br>Authorisation of hire-car drivers<br>Audit of hire care operators<br>Audit of wedding car operators             |

**Accreditation**

Accreditation is a process to determine the suitability of operator applicants to run businesses in the road passenger transport area. There are a number of criteria for making these judgments, including whether the applicants have the necessary education certificate; the financial viability of the applicant; the fitness of the applicant (criminal history checks are used) and so forth.

**Authorisation**

Authorisation is a process to determine the suitability of driver applicants to operate a commercial public transport vehicle in NSW. There are a number of criteria for making these judgments, including whether a driver has a gold licence (as issued by the NSW Roads and Traffic Authority); that the driver has the necessary education certificate; the fitness of the applicants (criminal history checks are again used); medical checks and so forth. In addition, the Department administers a test of its own to determine whether a taxi driver has the necessary levels of locality knowledge.

**Compliance Audit**

Audit is a process used by the Department to determine whether

operators or drivers are abiding by the terms of their accreditation/authorisation. Taxi networks are also audited. Audits are used to determine whether an operator or driver is meeting the required standards or whether there is a need to improve some aspect(s) of their performance. Where needed, improvement notices are issued. Operators are given a set period to make the necessary improvements. Following this period, the Department undertakes a further follow-up visit. Depending on the initial or subsequent circumstances, penalty notices can be issued at any point in the process. For the most serious offences, operators/drivers can be asked to show cause as to why their accreditation or authorisation should not be cancelled. This is subject to appeal in the Administrative Decisions Tribunal.

### **Owners**

Owners are those people/companies who own the licence for the commercial passenger vehicles that are the focus of this report. Owners can be thought of as supplying the infrastructure for the industry, in this case the ability to put a commercial passenger vehicle on the road through the use of an appropriate vehicle licence. Owners can lease their licences to an operator who, in turn, puts a vehicle of their own on the road and makes the vehicle available to a driver. It is, therefore, possible for one person to be an owner (of the licence), an operator (appropriate systems and procedures in place) and a driver (actually taking the vehicle on the road).

### **Taxi-cab networks**

Taxi-cab networks are, for the most part, owner co-operatives. Operators are required to have access to a booking and communication system network to perform these functions. In addition, they have the ability to provide vehicle maintenance services, training of drivers and providing stand-by taxis when 'regular' taxis are off the road for maintenance and repair.

## **1.5 On-going Regulatory Activities of the Department**

There are a number of on-going regulatory activities that the Department undertakes on a day-to-day basis that are related to route bus services, taxi-cab services and hire-car services.

### 1.5.1 Route Bus Services

|                                      |   |
|--------------------------------------|---|
| <b>Regulating Route Bus Services</b> | The Department administers 235 commercial bus contracts and 1,833 non-commercial bus contracts. Both types of contract are specific in regard to the route covered, the locations at which passengers can be pick-up/dropped-off, frequency and timeliness of operation and, in the case of commercial operators, the fares charged. Any changes to these contractual conditions require Departmental approval.   |
| <b>Commercial Bus Contracts</b>      | Commercial bus contracts cover the general passenger services provided to the greater metropolitan area, Wollongong, Newcastle and all country towns with a population of over 7,500 persons. Contracts are for five-year periods and entitle the contractor to exclusive service provision within a specific geographical area. There are minimum service standards operators must observe, including such things as the frequency of services provided, cleanliness, signage etc. Commercial bus contracts mean that operators derive their income solely from the fares collected.   |
| <b>Non-Commercial Bus Contracts</b>  | Non-commercial bus contracts cover the conveyance of school students across NSW. Unlike commercial contracts, which rely on revenue raising from the public, operators are paid a contract price for the provision of the service that is based on the number of students carried.  |
| <b>Oversight Activities</b>          | <p>In addition to the contracts system, the Department also seeks to oversight the day-to-day behaviours of bus operators and drivers. Issues managed include driver authority cards, appointment of bus stops, changes of address of operator or driver, misuse of authority cards and so forth. There are currently 66 offences under the regulation, which underlie all aspects of statutory and contractual performance.</p> <p>As was noted earlier, the Department uses a system of compliance audits to assist in this oversight. The regular ‘diarised’ audits cover overall contract compliance and operators are generally audited once during the life of a single contract (5 years). Special or ‘triggered’ audits are instigated where there are performance difficulties that come to light as a result of complaints or where an incident/accident comes to the attention of the Department (operators are required to report all incidents/accidents).</p> |

### 1.5.2 Taxi Cab Services

#### **Regulating Taxi Cab Services**

The Department accredits taxi operators to manage and maintain taxi cabs in a licenced geographic area. In addition, it also authorises drivers to provide these services.

The Department manages extensive legislation and Regulations that cover a wide variety of matters: including the condition and age of taxis; fares; vehicle tracking devices and other safety measures; signs and lights; insurances; operator and driver behaviours, standards and records of drivers; hirings and fares; conduct of passengers; and driver training. There are currently 90 offences under the Regulation, which underlie all aspects of performance.

#### **Oversight Activities**

In undertaking this regulatory work, the Department uses a compliance audit process (as per buses). Triggered audits are undertaken in response to public complaints. Members of the public have the opportunity to voice their concerns about operator or driver performance via a public transport information and complaints line. Depending on the nature or the seriousness of the complaint(s), an audit may be undertaken. Additionally, the Department has officers ‘on the road’ who undertake a series of random audits of taxis. Where an ‘on-road’ audit gives indications of failure of a particular driver/vehicle, a full audit of the operator may then be instigated to ensure that systems and procedures are appropriate.

### 1.5.3 Hire Car Services

#### **Regulating Hire Car Services**

The Department accredits hire car operators to manage and maintain cars in a licenced geographic area. In addition, it also authorises drivers to provide the services.

The legislation and Regulations governing hire car services are extensive, being broken down to take account of ‘unrestricted’ hire cars and restricted hire cars (wedding vehicles and vintage vehicles). Restricted licences essentially limit the operations of these vehicles to weekends. The legislation and Regulations cover such matters as: the exact type of vehicle that can be used; condition and age of vehicles; conditions for hiring (eg one can’t ‘flag-down’ a hire car in the street); insurances; driver and passenger conduct and behaviours; and records of drivers. Fares are subject to negotiation between the provider and the potential passenger. There are currently 46 offences under the Regulations, which underlie all aspects of performance.

**Oversight Activities** In undertaking this regulatory work, the Department uses a combination of audits similar to those used for taxi-cabs. On-road inspectors undertake audits of single vehicles. The on-road audit may give indications of failures in compliance with accreditation, so full audits of operators may be instigated. While the Department would respond to customer complaints, as is the situation with the taxi industry, the Department receives very few complaints from the public about service. However, the Department does receive complaints from the unrestricted hire car industry about the operation of wedding vehicles that are allegedly undertaking unrestricted hire car work.

### **1.6 Acknowledgement**

**Assistance to the Audit Office** The Audit Office gratefully acknowledges the cooperation and assistance provided by staff of the Department of Transport and the Roads and Traffic Authority, and representatives of industry groups, to the audit team: John Watt and Stephen Horne.

### **1.7 Cost of the Audit**

**Audit Costs** The total cost of the audit to the date of tabling was \$94,000. The cost includes estimates of \$4,000 for printing and \$49,900 for payments to a contracted project leader. Also included in the total cost is time spent by staff of the Audit Office for which no compensation was made, which has been valued at \$8,400.

## **2. Assuring Compliance with Regulatory Standards**

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## 2. Assuring Compliance with Regulatory Standards

### Regulatory Compliance Functions Examined

There are three major compliance issues that have been identified during this audit:

- Enforcement of driver standards
- Enforcement of operator standards
- Support and enforcement issues.

### Volume and Scope of Regulatory Assurance Activities

Assurance activities are chiefly conducted through the Department's regional offices. A devolved approach allows each Office to deploy its available resources towards these activities in a manner which reflects regional priorities and issues. To provide an indication of the volume and scope of assurance activities, aggregated data has been provided by the Department below.<sup>1</sup>

| <b>Regulatory Compliance Assurance Activities Currently Undertaken by the Department</b> |                                |                           |                            |
|--|--------------------------------|---------------------------|----------------------------|
| <b>Industry Section</b>  | <b>Assurance Activities</b>    | <b>Quantity per annum</b> | <b>% covered per annum</b> |
| <b>Route Bus Services</b>  | Audit of operators             | 391                       | 22.9                       |
|  | Audit of drivers               | 8109                      | 19.1                       |
| <b>Taxi-Cab Services</b>   | Audit of taxi-cab networks     | 3                         | 4.0                        |
|  | Audit of operators             | 54                        | 0.6                        |
|  | Audit of drivers               | 4179                      | 17.8                       |
| <b>Hire Car Services</b>   | Audit of hire car operators    | 14                        | 0.8                        |
|  | Audit of wedding car operators | 0                         | 0.0                        |

Explanation of the various forms of assurance activities undertaken follows, together with discussion of the approaches being used in terms of their ability to achieve the desired regulatory objectives and best practice trends.

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<sup>1</sup> This data is indicative only. It has not been audited. Variations between Regional Offices may be significant. The cost of resources used for these activities has not been cited, as different approaches to the use of resources in each region make such figures difficult accurately to estimate.

## 2.1 Enforcement of Driver Standards

### Random Checks of Drivers are Used, but are Limited and Resource Expensive

The Department enforces driver standards through ‘on-road’ random audits, issuing improvement notices and, where needed, penalty notices and notices to give drivers cause to show why their authorities should not be cancelled (subject to appeal).

Such an approach is very time and resource consuming for the Department. It puts the Department in the position of trying to deal with, in a meaningful fashion, the 78,000 authorised drivers of commercial passenger vehicles. While the sheer quantity of drivers would be a challenge under the best of circumstances, even more challenging is the turnover in the industry where approximately one-third of the drivers leave every 12-18 months.

| <b>In practical terms, if the Department attempted to undertake annual inspections of ALL drivers of commercial passenger vehicles it would mean:</b> |  |
|---|--|
| Number of inspections required  | 78,000   |
| Total time required @ 30 mins per inspection  | 39,000 person hours<br>(approx. 5,570 person days) |
| No of letters advising driver of inspection time/location   | 78,000   |
| No of reminder letters required   | 78,000   |
| Number of reports generated   | 78,000   |
| Number of follow-up inspections required  | 3,900<br>(@ est 5% failure rate)                   |
| Other resources required  | premises for inspections, updated computer systems |

### A Higher Level of Assurance Might Be Expected

At present, all drivers are not regularly tested, but a percentage are on a random basis. The number of random tests conducted varies between regions, and is a factor of available time and resources. However, without regular testing of all drivers (say annually) there could be a risk that the regulatory objectives of the Act may not be achieved. This raises both effectiveness and resource issues. Given the resources that would be required to achieve annual testing (see above), the Audit Office is of the view that it would be neither efficient nor economical for the Department itself to undertake and fund, this level of regulatory activity. Rather, the Audit Office considers that the Department should look into alternate ways to achieve the legislative outcomes in an efficient manner.

**Drivers and Operators are Legally Responsible, and Could be made More Accountable for their Compliance**

An alternative approach is illustrated in the field of workplace safety, which if applied to driver standards would require operators and/or the industry to become more responsible for day-to-day oversight of such standards. At present this culture is not strongly evident across the industry. For example, a recent instance was related to the Audit Office where taxi drivers were seen fighting at Sydney Airport. Whilst industry groups deplored the unprofessional behaviour, there seemed to be an expectation by the industry that it was the responsibility of the Department to enforce the appropriate standards.

By contrast, in the area of workplace safety, employers in NSW are accountable, under Workers Compensation legislation, to have safe working conditions and practices. Whilst various inspection and enforcement arrangements are in place to assure compliance with the law, the focus of responsibility is not upon the regulator (WorkCover) but on the employer. The employer is legally required to ensure that staff are suitably trained and that required standards and systems are adopted and operate effectively. Such a change in the emphasis for responsibility provides useful insights for enforcing driver standards.

Driver standards are more easily and properly enforced by operators and/or the industry, eg the Taxi Council. If drivers are unable to exhibit the necessary standards, then it is in the interests of the operator and/or the industry to exclude them from the industry. The involvement of industry associations would seem to be particularly appropriate when there are significant numbers of individual owner/operator/drivers, as is the case in the taxi industry.

**The Department Should Provide a Safety Net**

This does not imply that the Department would have no role. For its part, under such an approach to assuring standards, the Department would recognise the potential for higher risk in individual taxi owner/operator/driver situations, and could focus its inspection and education efforts accordingly.

**Accountability and Responsibility Must Be Clear**

Managing the task of road passenger transport in this manner does not alter the overall regulatory objectives, just the manner in which they are achieved. However, in doing so it is imperative that responsibility and accountability are very clearly defined, and that the legislative provisions are consistent and effective to this end. Responsibility for specific matters should be directed to the most appropriate level source, and accountability clearly defined at that level. However, at the macro level the Department's accountability to assure regulatory outcomes are achieved must remain, and not be impeded.

## 2.2 Enforcement of Operator Standards

### **Audits of Operator Compliance**

The Department enforces operator standards through a formal audit-based approach. These audits are based around two major concepts:

- ‘diarised’ or regular audits which form a part of the performance assessment regime and which are undertaken on a regular basis
- ‘special’ or triggered audits, which are brought about by a particular incident/accident, or by a series of smaller events that suggest that there is a performance issue that needs to be investigated.

Regular audits for buses, taxis and hire cars can have three different approaches, depending on the circumstance:

- a desk audit, which takes place within the Department
- an on-site audit, which takes place at the business address of the operator
- an on-road audit.

Taxis and hire cars are mostly audited by a combination of ‘on-road’ random audits and by special audits. The ‘on-road’ approach means that Department officers go on the road and pull over taxis and hire cars at random and undertake a series of checks. Should significant deficiencies be found, the audit then moves on to the operator concerned to ensure that their systems and procedures meet the required standards.

### **Dealing with Problems Identified**

Depending on the results of the audit, the Department can require an operator to improve their performance in the case of a minor transgression, issue a penalty notice or, in a worst-case situation, ask the operator to show cause why their accreditation should not be cancelled (subject to appeal).

The special and random audits can be an effective way of dealing with performance problems identified as a result of customer complaint. Department officers feel that they are adding maximum value by undertaking these audits and that the travelling public of NSW should be reassured by the response of the Department to complaints.

**Keeping Up Audit Activity Levels is Difficult and Some Audits Become Infrequent**

However, given limited resources, this level of activity directed to these aspects puts significant pressures on the others, such as the ‘diarised’ audits of bus operators. It was indicated to the Audit Office that consequently it was not uncommon for audit timetables to slip and for a backlog of audit work to grow until a major blitz can be organised. Bus operators are only given a diarised audit once every five years and there is concern about the efficiency of this approach from within the Department. The Audit Office considers that a new approach is needed and one that allows much more regular auditing of all operators for compliance (taxis, hire cars and buses)

**Compliance Could be Assured for All Operators All the Time**

The principle that assuring compliance with standards or licence conditions can be performed by an accredited third party is well established. For example, it has been longstanding practice for the Roads and Traffic Authority in the area of vehicle safety inspections, as explained below.

**How does the Roads and Traffic Authority Vehicle Inspection Scheme work?**

Motorists owning private vehicles greater than 3 years of age are required to present their vehicles to an authorised inspection station for an annual safety inspection. These authorised inspection stations are privately run. There are a series of criteria that these have to meet to become authorised. Vehicle inspections are based on criteria set by the RTA. Motorists pay a fee to the inspection station. The inspection station keeps records of their inspections. Motorists are given a copy of the report, which is required by the RTA before their vehicle can be re-registered. RTA staff visit all inspection stations twice a year to make contact and ensure that basic systems and procedures are in place. In addition, 10% of inspection stations are audited annually, where a minimum of 5 vehicles inspected by the station are re-examined by RTA staff. A wide variety of penalties is available to ensure that the required outcomes are achieved.

**Using Third Party Checks to Assure Compliance Offers Potential for Better Regulatory Results and also for Taxpayer Savings**

Whilst this provides a useful local example of a contracted regulatory assurance system, the use of independent third party certification schemes has proven to be a popular approach in a wide variety of situations around the world.

In the private sector, self imposed regulation has occurred in a number of areas and often employs an independent third party certification method to provide credible assurance that organisation systems and practices satisfy defined standards. Such an approach has become the norm for quality assurance certification, which is used in a vast array of business and government areas.

Such approaches have also been applied in highly specialised fields, for example to certify compliance by hospitals with defined health standards. Overseas examples extend such an approach to the independent validation of performance information by public utilities operated by private companies (such as in the water supply area).

An independent audit process for operator compliance would allow the Department to refocus its energy on the activities that add maximum value: the triggered or special audits of the bus, taxi and hire car industries, as well as education and support activities.

It could also be suggested that moving to such an approach would require the industry to bear more fully its fair share of the regulation of their industry (from which they derive benefit or profit). It should be emphasised, however, that in establishing such an approach that the Department should in no way abrogate its responsibility for ensuring that effective outcomes are achieved. This is not a call for deregulation or for the Department to transfer its regulatory power to industry. Rather, it is an argument for placing the onus of meeting these standards with the beneficiaries of the outcome: a co-regulatory approach.

**Potential Benefits from a Third Party Checking System**

| <b>A Comparison of Possible Outcomes of the Two Approaches</b>         |   |
|--|---|
| <b>Current System</b>  | <b>Proposed New Approach</b>  |
| DoT staff undertake all operator audits                                | DoT staff undertake triggered operator audits   |
| Bus operators audited once over five years                             | Bus operators audited routinely (audit cycle time to be determined by government)               |
| Taxi and hire car operators audited infrequently (by random selection) | Taxi and hire car operators audited routinely (audit cycle time to be determined by government) |
| DoT responsible for most compliance-checking costs                     | Operators responsible for most compliance-checking costs  |
| DoT concerned with process and outcomes                                | DoT concerned with outcomes   |

## 2.3 Support and Enforcement Issues

### **Compliance Checking is Only Part of the Answer to Achieving Effective Regulatory Compliance**

As a result of the large number of operators and drivers who are in the road passenger transport industry in NSW, random audits make a good deal of sense. It would be, for instance, exceedingly difficult to implement a program of structured visits to the 78,000 certified drivers in NSW. The difficulty of doing this is further compounded by the high turnover of drivers in the industry, as was noted earlier.

However, experience indicates that there are two important factors that need to accompany such systems to ensure success:

- a structured education program which supports industry participants
- a fine system that makes being penalised for non-compliance particularly unattractive.

A current example is the support and enforcement approach to the recent introduction by the Federal Government of the goods and services tax. Whilst significant compliance audit activity will occur, the regulatory compliance strategy has placed a strong emphasis on education and assistance, with very high penalties for deliberate breaches.

### **A Key Role for Education and Advice**

It is noted that road passenger transport industry associations are active in supporting the educational needs of their members, eg the NSW Taxi Council. Because of the many changes that the road passenger transport industry is going through (eg technology changes; changes to regulation; changes to customer service standards) it is important that the accreditation process seeks information about the activities that have been undertaken by operators to improve their knowledge, skills and attitudes.

The Department also assists in this regard, providing advice where it can to operators and drivers, but is clearly limited by the existing resources available for this activity.

| <b>Potential Benefits from the Proposed New Approach</b>  |  |
|---|--|
| <b>Current System</b>   | <b>Proposed New Approach</b>   |
| DoT responsible for vast bulk of enforcement activity   | DoT, operators and industry associations responsible for enforcement activity                                  |
| Enforcement limited by DoT resources  | Enforcement resources come from DoT, operators and industry  |
| DoT responsible for most costs  | DoT, operators and industry share enforcement costs  |
| DoT education and support activities limited by focus of resources on high volume direct inspection and processing activities | DoT adopts a strategic approach to regulatory assurance with a major focus on education and support activities |
| DoT concerned with process and outcomes   | Operators and industry concerned with process<br>DoT concerned with outcomes                                   |

**Penalties Need to Be Sufficient to Encourage Serious Efforts to Achieve Compliance**

In terms of the levels of fines that are currently in place in NSW, there are two levels of fines in operation: those that are imposed as a result of ‘on-the-spot’ inspections and those that are imposed by courts. The fines that can be imposed by the courts can be a magnitude higher than those imposed ‘on the spot’. However, it is the view of The Audit Office that there is a need to increase the penalties available so that ‘on the spot fines’ are a significant deterrent to operators and drivers. Currently, the maximum ‘on the spot’ penalties in operation for the industry are:

*Taxi-Cabs*

\$400 for offences such as a wheelchair-taxi not give preference to a wheelchair passenger. A \$200 fine applies where a taxi is driven without an appropriate authority.

*Buses*

\$200 for offences such as not ensure bus driver authorised; bus operator not maintaining required insurance. A \$100 fine applies where a driver fails to follow the contracted route/timetable

*Hire-Cars*

\$200 for offences such as drive a hire car without appropriate authority or to operate a hire car beyond maximum age. A \$150 fine applies where a hire car is moved with the doors open.

These levels of fines are unlikely to act as a significant deterrent to industry participants.

**Recommendations**

**It is recommended that:**

- **Legislative reform be considered to:**
  - **Place requirements and costs upon operators for obtaining periodic (perhaps yearly) independent certification of regulatory compliance as part of licensing conditions**
  - **accredit independent third party bodies to undertake regulatory compliance certifications**
  - **set penalties for non-compliance with regulatory standards at sufficient levels to encourage operator and driver compliance.**
- **The Department implement systems and procedure to validate the independence of and the standard applied by third party certifying bodies.**
- **The Department redirect its efforts and resources in the area of road passenger transport so as to:**
  - **adopt a more strategic approach to assurance activities**
  - **increase its education and advisory activities.**

### **3. Certification/Licence Processing Issues**

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### 3. Certification/Licence Processing Issues

#### 3.1 Cost Recovery from the Industry

**Current Fee Levels are Not Based on Costs Incurred**

The Transport Services Division currently collects a wide variety of fees from transport operators and drivers. Fees cover the following matters:

- bus operator accreditation application and renewal
- bus driver authority application and renewal
- taxi operator accreditation application and renewal
- taxi driver authority application and renewal
- hire car operator accreditation application and renewal
- hire car driver authority application and renewal.

A table summarising the type of work, the fee charged and the period of time covered by the fee.

| <b>Fees for Operators and Drivers</b>  |                    |                       |
|--|--------------------|-----------------------|
| <b>Category of Work</b>                | <b>Fee</b>         | <b>Period Covered</b> |
| Bus Operator Accreditation Application | \$100              | Unlimited             |
| Bus Operator Renewal                   | N.A.               | N.A.                  |
| Taxi Operator Application              | \$100              | 1 year                |
| Taxi Operator Renewal                  | \$260 per vehicle* | 1 year                |
| Hire Car Operator Application          | \$100              | Unlimited             |
| Hire Car Operator Renewal              | N.A.               | N.A.                  |
| Bus Driver Application                 | \$20               | 3 years**             |
| Bus Driver Renewal                     | \$20               | 3 years**             |
| Taxi Driver Application                | \$100              | 1 year                |
| Taxi Driver Renewal                    | \$45               | 3 years**             |
| Hire Car Driver Application            | \$20               | 1 year                |
| Hire Car Driver Renewal                | \$20               | 3 years**             |

\*or \$100 if no vehicles operated

\*\*period may be less where there is a medical condition

Fee systems should recover the costs of undertaking particular administrative procedures for the industry. At the current time, fees are not based on the amount of work carried out by the Department.

**Recommendation**

**It is recommended that the Department review existing license/authority fees in the road passenger transport area to better equate to full cost recovery.**

**3.2 Risk Based Certification Periods for Operators/Drivers**

**Linking Accreditation with Risk**

It is noted that operator and driver accreditation periods vary, these being based on experience of turnover in the industry and of the likely risks that exist in particular parts of the industry. A more sophisticated approach may be to consider linking accreditation/authorisation with operator/driver performance. Where operators/drivers are issued with improvement notices or penalties, then the duration of their certification should be reduced, while operators/drivers who meet all necessary standards are rewarded with extended certification periods. The more frequent renewals would cost more which, when combined with fees based on full cost recovery, should have the effect of increasing the incentives for operators/drivers to perform at the required standards. An analogy is the five year gold licenses issued by the RTA for drivers with established good driving records.

**Recommendation**

**It is recommended that the Department institute a system of periodical certification renewals that reflect the risks that individual operators and drivers pose.**

**3.3 Processing of Driver Authorities**

**Processing Volumes are Large**

The Department is responsible for administering a processing system to deal with the 78,000 driver authorities that apply to taxis, hire cars, route bus and long distance coach drivers.

The administration of this system is quite complex and operates at three levels:

- information collection
- probity checking
- decision-making.

**Processing Large Volumes Requires High Efficiency, but Current Processes Create Blockages and Delays**

The information collection stage includes the assembly and collection of information from applicants: forms filled in, medical information etc together with a picture for authorisation purposes (which is displayed on the dash of the vehicle). The collection and assembly of this information is not necessarily straightforward. Applicants may not provide all the required information in the required form, the picture could be the wrong size, medical information may be incomplete and so forth. This requires a large amount of processing and often takes place via the mail or fax rather than in person.

**Various Processing System Efficiency Impediments Exist**

Probity checking requires access to the Roads and Traffic Authority DRIVES system for licence checking and the Police Service COPS system for a criminal background check. Again, this is administratively burdensome; one of the DoT regional Offices is in the situation where only one of their staff has access to the DRIVES system for instance. This means that should that single person be absent, then there is no access to this system, which has the effect of slowing down processing activity by the Department.

The final stage of the process, decision making, is also quite complex. Department officers are required to make judgments about the appropriateness of a single application in terms of: criminal backgrounds; general licence condition; medical situation and so forth. Only after each of these stages has been completed can a decision be made.

Driver authority periods are normally for 1 year after application, followed by a three-year renewal period (taxis and hire cars); for bus drivers the situation is a 3 year/3 year system. However, in the case of driver applicants who are deemed to have significant medical conditions, for example coronary heart disease sufferers, licences are renewed annually.

All of this imposes a large amount of processing on Department officers. Because the Department has only 3 regional offices (Parramatta, Wollongong and Newcastle) a lot of this happens via mail, something that has the tendency to slow down the process even further. E-business solutions should be considered after there has been a thorough assessment and improvement of existing systems, so that new solutions are not merely the result of automating existing systems and procedures.

**Contracting Out of Routine Applications and Renewals Would Greatly Reduce Processing Volumes**

Given the constrained resources of the Department and the amount of time and energy that are taken in processing this information, some consideration should be given to contracting out some or all of the process. One option that exists is to undertake a risk assessment, so that the Department retains control of those situations that could be deemed as being ‘risky’. For instance, it would be possible to put in place a system for driver authorities where, if the applicant met standard conditions (eg. no medical condition, no criminal record, no driving licence infractions), then the contractor could make a decision to authorise the driver on behalf of the Department. On the other hand, should there be a medical condition etc then decision-making would be referred to the Department.

| <b>Potential Benefits</b>                                |   |
|--|---|
| <b>Current System</b>                                    | <b>New System</b>   |
| DoT responsible for processing all driver authorities    | DoT responsible for processing ‘high risk’ driver authorities |
| ‘Low risk’ processing takes up large amounts of DoT time | ‘Low risk’ processing activity undertaken by contractor       |
| Applicants may find it difficult to access DoT locations | Contractor has convenient locations across state              |
| DoT concerned with process and outcomes                  | DoT concerned with outcomes                                   |
|  | Contractor concerned with process                             |

**Contracting Out Could also Improve Customer Service**

In considering the option of contracting-out, the Department would need to consider the highly distributed nature of the client base and the forms of service required. An organisation such as the Roads and Traffic Authority, for example, may provide the type of network and systems required.

**Recommendations**

- It is recommended that the Department:**
- **Contract one or all of the processing of driver authorities for bus, taxis and hire cars in NSW**
  - **Build on the work already underway to utilise the potential of e-business systems to enhance efficiency and customer service.**

### 3.4 Licensing Outcomes

#### **Judging 'Fitness' to Hold a Licence**

Under the *Passenger Transport Act 1990* (S11) the Department is required to ensure that drivers 'are of good repute and in all other respects a fit and proper person to be the driver of a public passenger vehicle'.

The Department, in putting in place a decision-making framework to deal with these requirements, has designed a multi-step process. While the process appears to give clear direction to officers for decision-making, this may not always ensure that the desired outcomes are achieved.

For instance, the Department asks the question of driver applicants: 'do you have a criminal record in the last 10 years'. Under this circumstance, it is quite possible for an applicant legitimately to answer 'no', but also to have a criminal history beyond the ten year limit.

It would seem prudent for the Department to examine existing systems and procedures to ensure that they are delivering the outcomes expected of them. This is particularly important should the Department decide to contract-out the processing of applications.

#### **Recommendation**

|   |
|---|
| <p><b>It is recommended that the Department review existing approaches to applications for accreditations/authorities to ensure that they are generating the outcomes required of them.</b></p> |
|---|

## **4. Contract Issues in the Bus Industry**

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## 4. Contract Issues in the Bus Industry

### **Purchasing Bus Services**

There are a series of complex issues associated with the Department acting as a purchaser of bus transport services in NSW. In this role, it purchases and manages a series of 1,833 non-commercial bus contracts and 235 commercial bus contracts.

### **Contract Specifications Require Extensive Administration**

The non-commercial bus contracts are concerned with the School Student Transport Scheme. At the moment, the contracts used are based around the concept of contracting for outputs, that is to say the contracts specify the routes to be followed, the pick-up points to be used, the time that the children are to be at school and so forth. They are very detailed. The consequence of this situation is that there are very large numbers of variations to contracts sought from the Department by non-commercial operators each year. These variations consume large amounts of Department time. There is evidence to suggest that this is a frustrating process for students, parents and Department officers. Further, such an approach impedes contractors from providing creative solutions to best meet the needs of clients: the parents and students concerned.

### **The Current Bus Contract System**

**A new estate** opens close to a large country town in NSW. The plan is for a small sized estate, so the developer plans carefully and decides that only two bus stops will be necessary, on the major road. Families move out of the smaller surrounding towns into the new estate. Parents lobby the local bus company for transport to school for their students. The bus company applies for a variation of contract to the Department of Transport. Officers go out, inspect the proposed route, the place of bus stops, the time it takes to get to school and so forth. Eventually, the bus operator is given approval to this variation to contract.

**A second stage** is added to the estate, featuring ten-acre allotments, twelve months later. People from larger rural properties further away from town find this an attractive option, as do families living in town on smaller allotments. Families gradually move in. More children require transport to school. New bus stops are required because the estate has become so physically large. The bus company applies for another variation of contract to the Department of Transport. Officers go out, inspect the revised route, the place of bus stops, the time it takes to get to school and so forth. Eventually, the bus operator is given approval for this variation to contract.

**Change to a Greater Focus on Outcomes?**

The Audit Office considers that there would be merit in moving to contracting for outcomes, with the Department only being involved where changes to contracts would lead to additional costs to the scheme or to changes in performance that would affect the outcomes required of the scheme. Minimum standards could still be specified to address concerns over critical aspects, such as vehicle safety and suitability.

**Recommendation**

**It is recommended that the Department investigate the use of contracting for outcomes rather than outputs in implementing the School Student Transport Scheme**

**Lack of Flexibility in Bus Route Allocation**

The commercial bus contracts cover the Sydney metropolitan area, as well as Wollongong, Gosford and country towns having a metropolitan population in excess of 7,000 people. The contracts for these services cover relatively small geographic areas and grant an exclusive licence to an operator to undertake activity in that area. One of the issues associated with this arrangement is that the establishment of 'cross-border' bus routes can be difficult, given the exclusivity of the existing contracts. Given the importance of getting people 'out of cars and onto public transport', this is an issue that requires further investigation by the Department. The Audit Office acknowledges that the Department has taken some steps to examine matters in this area, and there are numerous complexities involved.

**Recommendation**

**It is recommended that the Department further investigate how 'cross-border' commercial bus contracts can be more easily developed and implemented.**



## **5. Probity Issues**

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## 5. Probity Issues

### **Regulators Face Potentially Difficult Probity Issues**

Ethics and probity is a particular issue for all regulatory agencies, as was noted by the Independent Commission Against Corruption in its 1999 publication *Strategies for Preventing Corruption in Government Regulatory Functions*.

The activities undertaken by the Transport Services Division of the Department are concerned with the effective regulation of the taxi, hire car and route bus services. Staff administer a complex set of regulations to ensure that participation in the industry and day-to-day outcomes meet the needs of the travelling public of NSW.

The Department, in effect, operates as the umpire or policeman of the industry and this places it in a position where it must act and be seen to act in an ethical manner. In these circumstances, there may be times where the Department is criticised for policing regulations that certain industry participants do not like or accept. This should not be seen as an ethical failure by the Department, but reinforces the need for Department staff to behave in an ethical manner.

### **Establishing Sound Probity Foundations**

The ability of staff to behave in an ethical manner is affected by a number of factors:

- the existence of a strong policy framework which is regularly updated that encourages ethical behaviour
- unambiguous management leadership about ethical behaviour
- skilling staff to clearly understand their obligations
- the implementation of policies and procedures that minimise staff exposure to potentially difficult ethical situations
- work systems and procedures address probity issues and allow staff time to make well-informed judgments.

The Department has a series of policies to stress the need for professional behaviours, including a Code of Conduct and a Fraud and Corruption Prevention Strategy.

The Code of Conduct contains information about a wide range of issues, including guidance on ethical decision making; acceptance of gifts or benefits; conflicts of interest; fairness and equity; protecting confidential information; reporting corrupt conduct and maladministration; responsibilities of managers and supervisors; and post-separation employment.

The Fraud and Corruption Prevention Strategy has been in place since 1994.

Interviews indicate that there is a strong recognition by line management of the need to provide effective leadership about ethical behaviours.

Staff have recently been given the opportunity to attend training in corruption prevention and ethical decision-making. There have been policies and procedures implemented in the Transport Services Division to minimise staff exposure to potentially difficult ethical situations, including sending out auditors in teams and ensuring that audits of single operators are undertaken by different auditors over time.

**Reliance on Professional Judgement Requires Suitable Expertise**

Work systems and procedures are very detailed but ultimately rely on professional judgment being exercised. In order to overcome staffing shortages (sick leave etc) the Department does use temporary staff. It was noted that, on occasion, these staff could end up making decisions based on interpretation of regulations and standards. While this may be appropriate in the case of highly experienced and skilled long-term employees, there are issues about using temporary staff to undertake these tasks.

**Recommendations**

**It is recommended that the Department:**

- **update all policies and procedures that are concerned with ethical decision making and probity issues**
- **review the nature of tasks to be undertaken by temporary staff to ensure that they are not required to make decisions beyond their technical competence.**



## **6. Appendices**

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## Appendix 1: Audit Criteria

### Effectiveness

Effectiveness is a measure used to determine whether the outputs and outcomes generated by the regulatory activities undertaken by the Department meet the policy objectives of the Government and the legislation and regulations administered by the agency.

Effectiveness can be assessed by a variety of techniques:

- an examination of the policy documents and operational manuals used by the Department to determine whether these meet the government's objectives and those of the Act and Regulations
- assessment of operational activities to determine their success
- assessment of the views of Departmental staff and key stakeholders on effectiveness issues
- assessment of the performance measures used by the Department to determine effectiveness.

Effectiveness also requires that probity considerations and corruption risks be properly dealt with in the management of the Department's activities. Ethics and probity is a particular issue for regulatory agencies, as was noted by the Independent Commission Against Corruption in its 1999 publication *Strategies for Preventing Corruption in Government Regulatory Functions*.

An analysis of the this work, together with discussions with ICAC staff, indicates that in developing criteria for this audit, that there are three particular aspects of performance that need to be considered:

- the policies that regulatory agencies have in place to anticipate and manage ethics and probity issues
- the leadership behaviours used by managers to ensure that these issues are anticipated and managed by operational staff
- the behaviours of operational staff in administering the legislation and regulations.

**Efficiency**

Efficiency is an issue for regulatory agencies since this is essentially a test of how economical the Department is in carrying out its regulatory activities.

Efficiency focuses on processes, to determine whether the inputs dedicated to a particular task produce the required outcomes in the most economical fashion. Given the large number and complexity of regulations administered by the Department, efficiency may be a significant issue.

Efficiency can be tested at two levels. Internally, it can test existing procedures at the micro level to determine whether they are as economical as possible. Alternatively, efficiency can be considered at the macro level, where the options of other approaches to the work undertaken need to be considered. This audit considered both of these approaches to efficiency.



# **Performance Audits by the Audit Office of New South Wales**

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# Performance Auditing

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Performance audits seek to serve the interests of the Parliament, the people of New South Wales and public sector managers.

The legislative basis for performance audits is contained within the *Public Finance and Audit Act 1983, Division 2A*, which differentiates such work from the Office's financial statements audit function. Performance audits examine whether an authority is carrying out its activities effectively and doing so economically and efficiently and in compliance with all relevant laws. These audits also evaluate whether members of Parliament and the public are provided with appropriate accountability information in respect of those activities.

Performance audits are not entitled to question the merits of policy objectives of the Government.

When undertaking performance audits, auditors can look either at results, to determine whether value for money is actually achieved, or at management processes, to determine whether those processes should ensure that value is received and that required standards of probity and accountability have been met. A mixture of such approaches is common.

Where appropriate, performance audits provide recommendations for improvements in public administration.

Performance audits are conducted by specialist performance auditors who are drawn from a wide range of professional disciplines.

The procedures followed in the conduct of performance audits comply with the Audit Office's Performance Audit Manual which incorporates the requirements of Australian Audit Standards *AUS 806 and 808*.

Our performance audit services are certified under international quality standard *ISO 9001*, and accordingly our quality management system is subject to regular independent verification. The Audit Office of NSW was the first public audit office in the world to achieve formal certification to this standard.

## Performance Audit Reports

| No. | Agency or Issue Examined   | Title of Performance Audit Report or Publication  | Date Tabled in Parliament or Published |
|-----|--|---|--|
| 1   | Department of Housing  | <i>Public Housing Construction: Selected Management Matters</i>   | 5 December 1991                        |
| 2   | Police Service, Department of Corrective Services, Ambulance Service, Fire Brigades and Others | <i>Training and Development for the State's Disciplined Services:<br/>Stream 1 - Training Facilities</i>  | 24 September 1992                      |
| 3   | Public Servant Housing   | <i>Rental and Management Aspects of Public Servant Housing</i>  | 28 September 1992                      |
| 4   | Police Service   | <i>Air Travel Arrangements</i>  | 8 December 1992                        |
| 5   | Fraud Control  | <i>Fraud Control Strategies</i>   | 15 June 1993                           |
| 6   | HomeFund Program   | <i>The Special Audit of the HomeFund Program</i>  | 17 September 1993                      |
| 7   | State Rail Authority   | <i>Countrylink: A Review of Costs, Fare Levels, Concession Fares and CSO Arrangements</i>   | 10 December 1993                       |
| 8   | Ambulance Service, Fire Brigades   | <i>Training and Development for the State's Disciplined Services:<br/>Stream 2 - Skills Maintenance Training</i>  | 13 December 1993                       |
| 9   | Fraud Control  | <i>Fraud Control: Developing an Effective Strategy<br/>(Better Practice Guide jointly published with the Office of Public Management, Premier's Department)</i> | 30 March 1994                          |
| 10  | Aboriginal Land Council  | <i>Statutory Investments and Business Enterprises</i>   | 31 August 1994                         |
| 11  | Aboriginal Land Claims   | <i>Aboriginal Land Claims</i>   | 31 August 1994                         |
| 12  | Children's Services  | <i>Preschool and Long Day Care</i>  | 10 October 1994                        |
| 13  | Roads and Traffic Authority  | <i>Private Participation in the Provision of Public Infrastructure<br/>(Accounting Treatments; Sydney Harbour Tunnel; M4 Tollway; M5 Tollway)</i>               | 17 October 1994                        |
| 14  | Sydney Olympics 2000   | <i>Review of Estimates</i>  | 18 November 1994                       |
| 15  | State Bank   | <i>Special Audit Report: Proposed Sale of the State Bank of New South Wales</i>   | 13 January 1995                        |
| 16  | Roads and Traffic Authority  | <i>The M2 Motorway</i>  | 31 January 1995                        |
| 17  | Department of Courts Administration  | <i>Management of the Courts:<br/>A Preliminary Report</i>   | 5 April 1995                           |
| 18  | Joint Operations in the Education Sector   | <i>A Review of Establishment, Management and Effectiveness Issues<br/>(including a Guide to Better Practice)</i>  | 13 September 1995                      |
| 19  | Department of School Education   | <i>Effective Utilisation of School Facilities</i>   | 29 September 1995                      |

| No. | Agency or Issue Examined   | Title of Performance Audit Report or Publication  | Date Tabled in Parliament or Published |
|-----|--|---|--|
| 20  | Luna Park  | <i>Luna Park</i>  | 12 October 1995                        |
| 21  | Government Advertising   | <i>Government Advertising</i>   | 23 November 1995                       |
| 22  | Performance Auditing In NSW  | <i>Implementation of Recommendations; and Improving Follow-Up Mechanisms</i>                                      | 6 December 1995                        |
| 23  | Ethnic Affairs Commission  | <i>Administration of Grants<br/>(including a Guide To Better Practice)</i>  | 7 December 1995                        |
| 24  | Department of Health   | <i>Same Day Admissions</i>  | 12 December 1995                       |
| 25  | Environment Protection Authority   | <i>Management and Regulation of Contaminated Sites:<br/>A Preliminary Report</i>                                  | 18 December 1995                       |
| 26  | State Rail Authority of NSW  | <i>Internal Control</i>   | 14 May 1996                            |
| 27  | Building Services Corporation  | <i>Inquiry into Outstanding Grievances</i>  | 9 August 1996                          |
| 28  | Newcastle Port Corporation   | <i>Protected Disclosure</i>   | 19 September 1996                      |
| 29  | Ambulance Service of New South Wales   | <i>Charging and Revenue Collection<br/>(including a Guide to Better Practice in Debtors Administration)</i>       | 26 September 1996                      |
| 30  | Department of Public Works and Services  | <i>Sale of the State Office Block</i>   | 17 October 1996                        |
| 31  | State Rail Authority   | <i>Tangara Contract Finalisation</i>  | 19 November 1996                       |
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| 63  | Department of Education and Training                                   | <i>The School Accountability and Improvement Model</i>  | 12 May 1999                            |
| 64  | Key Performance Indicators   | <ul style="list-style-type: none"> <li>• <i>Government-wide Framework</i></li> <li>• <i>Defining and Measuring Performance (Better practice Principles)</i></li> <li>• <i>Legal Aid Commission Case Study</i></li> </ul>            | 31 August 1999                         |
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| 66  | Office of the Protective Commissioner<br>Office of the Public Guardian | <i>Complaints and Review Processes</i>  | 28 September 1999                      |
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| 71  | Academics' Paid Outside Work   | <ul style="list-style-type: none"> <li>▪ <i>Administrative Procedures</i></li> <li>▪ <i>Protection of Intellectual Property</i></li> <li>▪ <i>Minimum Standard Checklists</i></li> <li>▪ <i>Better Practice Examples</i></li> </ul> | 7 February 2000                        |
| 72  | Hospital Emergency Departments   | <i>Delivering Services to Patients</i>  | 15 March 2000                          |
| 73  | Department of Education and Training                                   | <i>Using Computers in Schools for Teaching and Learning</i>   | 7 June 2000                            |
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