



PARLIAMENT OF THE REPUBLIC OF FIJI

STANDING COMMITTEE ON PUBLIC ACCOUNTS

Public Consultations Audit Bill (Bill No. 17 of 2024)

The Standing Committee on Public Accounts will be conducting public consultations on the Audit Bill in the Northern and Western Division on the following dates and areas, and invites any interested person or institution wishing to provide their views and comments on the Bill are to attend the public consultation:

No.	Venue/Location	Dates	Time
1.	Savusavu – PA Cakaudrove Conference Room (Afternoon Session)	Monday 4 November 2024	4:00pm – 7:00pm
2.	Savusavu - PA Cakaudrove Conference Room	Tuesday 5 November 2024	10:00am – 1:00pm
3.	Labasa Town/ Chamber	Wednesday 6 November 2024	11:00am – 2:00pm
4.	Labasa Town/ Chamber (Afternoon Session)	Thursday 7 November 2024	4:00pm – 7:00pm
5.	Sigatoka Town/ Chamber	Monday 11 November 2024	11:00am – 2.00pm
6.	Nadi Town/Chamber	Tuesday 12 November 2024	10:00am – 1.00pm
7.	Lautoka City/Chamber	Wednesday 13 November 2024	10:00am – 1.00pm
8.	Ba Town/ Chamber	Thursday 14 November 2024	11:00am – 2.00pm

For any query or if you wish to provide written or oral submission, please contact the Committee Secretariat through e-mail address: savenaca.koro@yahoo.com or vasiti.uluinayau@legislature.gov.fj and mobile (679) 9907356 or (679) 2385407. A copy of the Bill can be found on the Fiji Parliament website, via the link: [Bill-No.-17-Audit-Bill-2024.pdf \(parliament.gov.fj\)](#)

**HON. ESROM Y. IMMANUEL
(CHAIRPERSON)**



Fiji Institute of Chartered Accountants

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24 August 2023

Mr. Sairusi Dukuno
Acting Auditor-General
Office of the Auditor General
Level 1, Modyl Plaza
Karsanji St. Vatuwaqa, SUVA

Dear Mr. Dukuno

Re: FICA's Submission – Review of the Audit Act 1969

I am writing on behalf of the Fiji Institute of Chartered Accountants, and it is with great pleasure that we extend our gratitude for the opportunity to contribute to the Review of the Audit Act 1969.

Within our esteemed Institute, we possess a wealth of knowledge and extensive experience in matters related to auditing and accountancy. As evidence of our commitment to this important initiative, we wish to highlight our active participation in the consultative discussion that took place earlier this month in your training room. During this session, our distinguished members provided valuable insights, guidance, and support to the Office of the Auditor General (OAG) Team.

Enclosed with this letter, you will find our formal submission, which we have meticulously prepared for your kind consideration.

Should you require any further clarification please do not hesitate to reach out to our Standards Committee.

Thank you for your time and consideration.

Yours sincerely

Fiji Institute of Chartered Accountants

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Mr. Sharvek Naidu
Chairperson of the Standards Committee
Email: snaidu@kpmg.com.au
Phone#: 999 6382

Fiji Institute of Chartered Accountants



Audit Act 1969 Review Consultation - OAG

LEVEL 3 FIJI TEACHERS UNION BUILDING: MOBILE – 999 9949/ 222 2250: TELEPHONE: 8928721 EMAIL: INFO@FIA.ORG.FJ WEBSITE: WWW.FIA.ORG.FJ

FICA Delegation

- ▶ 11 August 2023, FICA Delegation Lead by the Chair of Standards Committee & Council Member, Mr. Sharvek Naidu met with OAG Team
- ▶ **Accompanied** – Sunil Sharma (PKF), Arun Chandrasekaran (EY) and Daljeet Maharaj (ED – FICA)
- ▶ **Appreciation** – FICA Council Members, President Rajeshwar Singh & Chair of B&G Committee/VP Wiliki Takiveikata. Standards Committee Members – Pradeep Patel, Kaushik Chandra, Shaneel Nandan, Sairusi Dukuno, Dr. Nacanieli Rika and Steve Nutley.

FICA's Review

Relevant Sections	Comments
Section 2A(d)	The provision in Section 2A(d) may pose potential conflicts with the regulations stipulated in the Companies Act. OAG needs to carefully consider the practical implications of this provision.
Section 5B 1 (f)	Does Section 5B 1 (f) restrict audit activities solely to financial audits, excluding other types of audits.
Section 6 – 2 (a)	Is the use of the term "faithfully" in Section 6 – 2 (a) appropriate, or should we consider aligning it with the audit opinion's use of the notion of "true and fair".
Section 6 – 4	In Section 6 – 4, is the term "audit management" synonymous with the management letter.
Section 6 AA – (1)	It grants the Office of the Auditor General (OAG) discretion to conduct special investigations. There must be a more structured framework or approval process to mitigate the risk of potential political motivations or witch hunting exercises.

FICA's Review Cont.....

Relevant Sections	Comments
Section 6A – (1)	In Section 6A – (1), when referring to activities that must be "authorized and approved," who holds the authority for granting such authorization and approval.
Section 6A – (3)	Consideration: Should Section 6A – (3) be expanded to include a broader range of activities rather than limiting it to these three specific items.
Section 6C – (1)	Has any comparison been made between the International Auditing Standards and INTOSAI standards to ensure compliance and consistency with Section 6C – (1).
Section 7	Suggestion: The review conducted by the Director of Public Prosecutions (DPP) should be assessed from a legal perspective. Consider whether the current phrasing, "reasonable basis of cause," is too broad. Should there be a more specific criterion for initiating reviews

FICA's Review Cont.....

Relevant Sections	Comments
Section 11 (1)	<p>Consideration: By reporting only "significant matters" in Section 11 (1), are we unintentionally limiting the scope of matters to report. Should we consider reporting all matters to Those Charged With Governance (TCWG) and categorizing them based on risk (Low, Medium, or High). It was suggested that a clear definition of what constitutes "significant matters" be provided to avoid potential misunderstandings. Options such as a traffic light system or significance metrics were discussed.</p>
Section 12 (1)	<p>Is the nine-month timeframe stipulated in Section 12 (1) for audit completion too lengthy. Should it be shortened to, for example, six months, considering that the private sector requires tax lodgments within a shorter period, and certain entities such as trusts and schools have more immediate audit reporting requirements.</p>

General Matters

- Which entity or authority holds oversight responsibilities over the Office of the Auditor General (OAG) and its financial records
- What about Confidentiality of Information – ensuring sensitive information isn't included in public reports etc. Specifically, safeguarding sensitive information to prevent its inadvertent inclusion in public reports, thereby preserving data privacy and security.
- In relation to appointments within the OAG, including the Auditor General, Deputy Auditor General, and other key roles, are the conditions of appointment, encompassing aspects such as remuneration, removal, and resignation, addressed in a separate section of the act
- Is there a section in the act that outlines the conditions of appointment and remuneration for independent auditors engaged by the OAG. This would ensure clarity and transparency in the engagement of external audit professionals.

General Matters Cont.....

- Resource constraints within OAG – human resources, financial and others. How to resolve resource constraints and what are the options.
- Significant backlogs – backlog audits needs to be cleared. This situation is having significant impact on the current audits and significant pressure on the limited resources and capacity. OAG should have effective plans and actions (including have a special team to deal with backlog audits only) to clear the backlog and also ensuring current audits are carried out on a timely basis.
- Efficiencies – OAG should carryout review of its internal policies, SOPs and guidelines to achieve improve efficiencies and effectiveness in its audits, covering statutory audits, performance audits and other audits.
- The inclusion of whistleblowing provisions in the act was brought up for consideration. It was suggested that these provisions enhance transparency and accountability within the office. However, there must be a clear documented framework and guidelines to ensure whistleblowing provisions are not abused or misused to achieve personal agendas.

General Matters Cont.....

- FICA Delegates emphasized the importance of public awareness and transparency. It was suggested that the OAG should engage in public outreach to communicate its activities and achievements.
- OAG to seek assistance and partnerships with stakeholders to address resource constraints and improve efficiency.
- OAG and FICA can partner to create awareness by conducting seminars, workshops and consultations with members and the public
- FICA acknowledges the resource constraints faced by the office. It was suggested that a tiered approach be adopted for addressing backlogs, prioritizing urgent audits. OAG to consider strategies for recruiting and retaining qualified staff.



Vinaka

Secretariat Contact Details



FIJI INSTITUTE OF CHARTERED ACCOUNTANTS

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LEX EST TUTISSIMA CASSIS

FIJI LAW SOCIETY

PRIVATE MAIL BAG, GOVERNMENT BUILDINGS, SUVA
Phone Contact: (679) 3319390 Email: flssecfiji@gmail.com

28 October, 2024

The Chair
Public Accounts Committee
Parliament of Fiji
SUVA

Dear Sir,

RE: FIJI LAW SOCIETY SUBMISSION ON THE AUDIT BILL

1. Thank you for the opportunity to provide our comments and recommendations for reforms to the Audit Act. Consultation is an important aspect of ensuring that new laws are effective and that they are implemented in a way that is fair and just.
2. Regularly reviewing the Audit Act reinforces accountability, improves governance, build public trust, enhances financial management and ensures compliance with international standards. The Society welcomes this reform given the issues surrounding the accounts of public entities.
3. Due to time limitations, our submission is limited only to the new Bill and does not include an assessment of its alignment to the Financial Management Act 2004 or other relevant legislation. We have also contained our submission to reflect our concerns about transparency, accountability, and effective financial management of public entities.

4. ABSOLUTE INDEPENDENCE OF THE OAG

The absolute independence of the OAG is critical for enabling effective oversight, ensuring public accountability, enhancing transparency, and fostering trust in government operations. Without this independence, the integrity of financial audits and the broader accountability mechanisms in government could be compromised.

5. Article 152(6) of the Constitution provides for the independence of the OAG which is a vital component of the OAG. It states that in the performance of his/her functions “...*the Auditor*

General shall be independent and shall not be subject to the direction or control of any person or authority...” This independence is vital for maintaining public trust in the auditing process.

6. Unfortunately, Art 152(6) adds an exception: “...*the Auditor General shall be independent and shall not be subject to the direction or control of any person or authority EXCEPT by a court of law or as otherwise prescribed by written law*” which we submit undermines the OAG independence in several ways:

- i. *Judicial Intervention:* The Constitution states that the Auditor General can only be subject to the direction or control of a court of law, this could lead to situations where the work of the Auditor General is influenced by legal proceedings or the judgments of the court. If the judiciary becomes involved in decisions about audit processes or findings, this may limit the Auditor General's ability to operate freely and independently.
- ii. *Written Law:* The phrase "as otherwise prescribed by written law" opens the door for legislators to enact laws that could impose restrictions or controls over the Auditor General's activities. This could be used to create mechanisms that influence how audits are conducted, which areas are prioritized, or how reports are produced and disseminated. Such laws could compromise the Auditor General's autonomy by subjecting them to political or governmental interests.
- iii. *Political Influences:* If the Auditor General can be influenced by the judiciary or legislative bodies through legal mandates, it could lead to a scenario where audit decisions are indirectly or directly swayed by political considerations. This connection may deter the Auditor General from pursuing certain audits or publishing findings that may be politically sensitive or unfavourable to those in power.
- iv. *Perception of Independence:* The perception of independence is crucial for the credibility of the Auditor General's office. Any legal frameworks or court interventions that appear to infringe upon the Auditor General's ability to function without outside influence may erode public trust in the integrity of its reports and findings.
- v. *Risk of Control:* If additional laws or regulations are introduced that dictate how the Auditor General should operate or handle specific cases, this could effectively place the office under control of other government branches, negating its role as an independent overseer of public finances. While the exceptions laid out in the constitution may be intended to provide checks or oversight, they can inadvertently create a situation where the Auditor General's actions are subject to external influences, thereby undermining the fundamental principle of independence that is vital for effective audit functions.

7. **Recommendation:** An amendment to the Constitution Article 152 must be made to ensure complete independence of the OAG.

8. **INTEGRATION OF TECHNOLOGY IN AUDITING**

We live in a different world today than we did in 1969 when the original legislation was passed. The world continues to change. Today, technology and the digital space has offered an more efficient alternative to doing business..

9. Leveraging technology and digital tools empowers the OAG to enhance its effectiveness, deliver more robust audits, and provide greater accountability in public finance management. The reliance on traditional manual audit methods under the Bill, is a significant issue in today's rapidly changing technological landscape.
10. Section 6(4) of the Bill empowers the OAG to access records stored electronically. Accessing records by electronic means is primarily about retrieval and viewing of digital documents and is a foundational step in the audit process. In contrast, the use of technology and AI in auditing encompasses a broader range of functions aimed at enhancing the quality, speed, and effectiveness of the audit process itself.
11. While electronic access is essential, the transformative potential of technology and AI lies in their ability to automate processes, analyse data at scale, and produce actionable insights that go beyond simple record-keeping. Embracing technology and AI can transform the auditing process, enhancing efficiency, accuracy, and the ability to provide meaningful insights, thereby positioning the Office of the Auditor General to better serve the needs of the government and the public.
12. ***Recommendation:*** The Bill should require the adoption of technological advancements to enhance the efficiency and effectiveness of audits. This includes utilising data analytics, artificial intelligence, and other digital tools.

Example Clause from the UK:

"The Auditor General shall employ appropriate technology and data analytics to improve audit outcomes and methodologies."

13. **STRENGTHENING AUDITOR INDEPENDENCE**

To bolster the independence of the OAG and its staff, the Bill should include provisions that prevent conflicts of interest and establish clear guidelines for the provision of non-audit services.

14. ***Recommendation:*** Strengthen s.3 by the inclusion of a similar clause.

Example Clause from Canada:

"The Auditor General shall not engage in any activity that conflicts with their duties and responsibilities, including the provision of non-audit services to any entity being audited."

15. **ENHANCED REPORTING REQUIREMENTS**

Under s.22(4) the OAG is given the discretion to “publish the report by any means the Auditor General considers appropriate.”

16. While the discretion given to the Auditor General to publish reports by any means deemed appropriate is a valuable tool for enhancing public accountability, it is not inherently sufficient. For this discretion to translate into meaningful accountability, there should also be a framework that ensures regular publication, mandates transparency, and encourages engagement with the public.
17. Additionally, safeguards should be in place to prevent potential abuses of discretion, ensuring that findings are communicated effectively to promote understanding and facilitate action based on

audit recommendations. Integrating clear guidelines and public education efforts can help maximize the effectiveness of this discretion in promoting genuine accountability.

18. **Recommendation:** The Bill should mandate comprehensive and transparent reporting by the Auditor General, including the requirement to present audit findings to Parliament AND to make them publicly available and accessible.

Example Clause from Sweden:

"The Auditor General shall submit an annual report to Parliament detailing the audit findings, conclusions, and recommendations, which shall be made publicly available."

19. Section 17 on *Notification of serious irregularities* currently states that in cases of serious irregularities the Auditor-General must bring the matter to the notice of the relevant Minister where the public entity concerned is a State entity; the Minister responsible for local government where the public entity concerned is a local authority; the responsible authority for, or person charged with the governance of, the public entity; or the Minister responsible for the public entity.
20. There are both advantages and disadvantages to this process. The advantages are:
 - a) Notifying the Minister may lead to quicker remedial action, as the Minister has direct oversight of the entity in question. This can facilitate prompt investigations and corrective measures.
 - b) It allows for a collaborative approach to address issues. The Minister can work with the Auditor General to resolve problems effectively before they escalate.
 - c) Direct communication with the Minister may simplify the process of addressing irregularities, ensuring that those responsible are alerted swiftly.
21. The disadvantages are:
 - a) Reporting serious irregularities to a Minister could lead to conflicts of interest, particularly if the Minister is implicated or if there is political pressure to downplay issues. This may undermine the Auditor-General's independence.
 - b) Notification to the Minister rather than Parliament could limit transparency. The public and other stakeholders may not be informed of serious issues, reducing accountability at a broader level.
 - c) Parliament, as the body that appoints the Auditor General, should ideally be kept informed of serious irregularities. This ensures that the legislative branch can provide oversight and hold the executive accountable.
22. While notifying the Minister might expedite action on irregularities, it risks compromising the independence of the Auditor General and the transparency of the auditing process. A balanced approach could involve the Auditor General notifying both the Speaker of Parliament and the Minister, maintaining accountability and transparency while allowing for swift resolution of issues. In this way, the Auditor General can operate independently while ensuring that both executive and legislative branches are informed of serious issues, safeguarding the integrity of public entities.

23. **Recommendation:** Suggest the inclusion as ss(a) that reports of serious irregularities must be reported to Parliament or the Speaker and to the relevant Minister.

18. **PROFESSIONAL DEVELOPMENT AND TRAINING**

To ensure that the Auditor General and their staff are equipped with the latest skills and knowledge, the Act should mandate ongoing professional development.

19. **Recommendation:** Inclusion of an appropriate new clause under s5 (6).

Example Clause from the USA:

"The Office of the Auditor General shall establish a program for the continuous professional education and training of its staff in accordance with recognized standards."

20. **STAKEHOLDER ENGAGEMENT AND TRANSPARENCY**

The public has a vested interest in knowing the accounts and findings of the OAG for several important reasons, all of which contribute to the fundamental principles of democracy, accountability, and good governance. Incorporating stakeholder engagement and transparency as core functions of the OAG enhances the effectiveness of the auditing process and contributes to stronger public financial management. These roles enable the OAG to foster a collaborative environment, enhance public trust, and drive improvements in accountability and governance.

21. It is fundamentally the public's 'business' to know the accounts and findings of the OAG because these reports reflect how public resources are managed, the effectiveness of government operations, and the overall integrity of public financial management. Access to this information fosters accountability, transparency, and active citizen engagement, which are vital for a healthy, functioning democracy.
22. An informed public can engage meaningfully with the government, promoting better governance outcomes and ensuring that public officials are held accountable for their actions. By actively engaging with stakeholders and promoting transparency, the OAG can help ensure that the audit function not only identifies issues but also contributes to meaningful change in the public sector.
23. **Recommendation:** The Bill should promote stakeholder engagement in the audit process, allowing for public consultations and feedback on audit reports.

Example Clause from the European Court of Auditors:

"The Auditor General shall engage with stakeholders, including civil society, to gather input and feedback on audit processes and findings."

24. **PENALTIES**

The Bill does not contain any penalties, neither does it give the OAG any powers to do so. We are of the view that the absence of penalties in the Bill can have significant implications on the functions of the OAG and the overall effectiveness of the auditing process.

25. The absence of penalties in the Bill significantly undermines the potential effectiveness and authority of the OAG. To ensure meaningful enforcement of audit recommendations, accountability for financial governance, and public trust in government operations, it is critical that the Bill includes mechanisms for penalties. Without these provisions, the functions of the OAG may be diminished, and the overall goal of promoting transparency and accountability in public finance compromised.
26. ***Recommendation:*** Specific penalties could help ensure compliance, accountability, and ethical conduct among public officials, entities being audited, and the auditors themselves. We have provided some potential penalties that could be included:

i. Penalties for Non-Compliance by Audited Entities:

- **Fines:** Imposing monetary fines on public entities that fail to comply with audit requirements, such as not providing necessary documents, delaying access to records, or failing to implement audit recommendations.
- **Exclusion from Future Funding:** Preventing entities from receiving future government funding or grants if they do not comply with audit protocols or submit to audits.

ii. Penalties for Misconduct by Public Officials:

- **Disciplinary Action:** Enabling disciplinary measures, including suspension or termination of employment, for public officials found to be obstructing audits or misrepresenting information during the auditing process.
- **Criminal Charges:** Establishing provisions for criminal prosecution in cases of fraudulent activities, evidence tampering, or any actions that intentionally mislead auditors.
- **Blacklisting of Persons in Charge:** In cases where individuals are found to have caused serious irregularities within a public entity, a formal blacklisting procedure should be instituted to uphold accountability and protect public resources. This process entails the immediate investigation of the implicated parties, followed by a comprehensive review of their actions and the impact on the entity's integrity. If sufficient evidence substantiates the claims of misconduct, these individuals may be placed on a blacklist, which would prevent them from holding any positions of responsibility within public entities in the future. This blacklist would be maintained by the relevant oversight authority and made publicly accessible, ensuring transparency while deterring potential malfeasance. Furthermore, the blacklisting process would include provisions for the individuals to appeal the decision, thereby safeguarding their rights while reinforcing the principle that public trust must be paramount in the management of public resources.

iii. Penalties for Auditors:

- **Revocation of License:** Allowing for the suspension or revocation of the certification or license of auditors who fail to adhere to professional standards or ethical guidelines, including negligence or misconduct.
- **Fines for Negligence:** Implementing fines for auditors whose negligence leads to significant oversight or failure to identify fraud or mismanagement in their audit reports.

iv. Public Disclosure of Non-Compliance:

- **Public Reports:** Mandating the disclosure of non-compliance findings in audit reports to enhance public accountability. This would include publishing names of entities that fail to adhere to audit requirements, making the information accessible and transparent to the public.

v. Legal Repercussions for Obstruction:

- **Contempt of Audit Authority:** Stipulating penalties for individuals or entities who intentionally obstruct the audit process, such as failing to provide requested documentation or hindering auditors' access to necessary records.
- **Injunctions:** Allowing the Auditor General to seek injunctions against entities that refuse compliance, facilitating prompt legal recourse.

vi. Failure to Implement Recommendations:

- **Reporting to Legislative Bodies:** Requiring the Auditor General to report to the legislature or governing body on entities that consistently fail to implement audit recommendations, leading to potential political and operational repercussions.

vii. Failure to Report Financial Irregularities:

- **Criminal Liability:** Imposing criminal liability on public officials who fail to report financial irregularities uncovered during audits, ensuring that there are consequences for neglecting to act on known issues.

viii. Civil Penalties:

- **Restitution:** Allowing for civil suits against individuals or entities found to have committed financial misconduct as a result of audit processes, requiring restitution to affected parties or the state.

By incorporating these penalties, the Bill can enhance the integrity and effectiveness of the auditing process, ensuring that all parties involved take their responsibilities seriously. These penalties can serve as deterrents against non-compliance and misconduct, promoting a culture of accountability and transparency in public financial management.

In conclusion, as we prepare to repeal the Fiji Audit Act 1969, it is crucial to establish a modern framework that enhances the independence, transparency, and effectiveness of the Office of the Auditor General. We urge the Parliamentary Committee to consider these recommendations and example clauses from other jurisdictions to ensure our auditing practices are robust and aligned with international best practices.

The Society looks forward to the opportunity to contribute further to this important legislative process.

Yours faithfully
FIJI LAW SOCIETY



William Wylie Clarke
PRESIDENT



LEX EST TUTISSIMA CASSIS

FIJI LAW SOCIETY

PRIVATE MAIL BAG, GOVERNMENT BUILDINGS, SUVA
Phone Contact: (679) 3319390 Email: flssecfiji@gmail.com

28 October, 2024

The Chair
Public Accounts Committee
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Dear Sir,

RE: FIJI LAW SOCIETY SUBMISSION ON THE AUDIT BILL

1. Thank you for the opportunity to provide our comments and recommendations for reforms to the Audit Act. Consultation is an important aspect of ensuring that new laws are effective and that they are implemented in a way that is fair and just.
2. Regular review of the Audit Act 1969 reinforces accountability, improves governance, build public trust, enhances financial management and ensures compliance with international standards. The Society welcomes this reform given longstanding issues in relation to the timely provision of accounts of public entities. The common and seemingly systematic delays in the provision of accounts for audit undermine confidence in public institutions and government’s ability to maintain near current information that enables it to respond proactively and effectively.
3. Time constraints have meant our submission is limited only to the new Bill and does not include an assessment of its alignment to the Financial Management Act 2004 or other relevant legislation. We have also contained our submission to reflect our concerns about transparency, accountability, and effective financial management of public entities.

4. **ABSOLUTE INDEPENDENCE OF THE OAG**

The absolute independence of the OAG is critical for enabling effective oversight, ensuring public accountability, enhancing transparency, and fostering trust in government operations. Without this independence, the integrity of financial audits and the broader accountability mechanisms in government could be compromised.

5. Article 152(6) of the 2013 Constitution provides for the independence of the OAG which is a vital component of the OAG. It states that in the performance of his/her functions “...*the Auditor*

General shall be independent and shall not be subject to the direction or control of any person or authority...” This independence is vital for maintaining public trust in the auditing process.

6. Unfortunately, Art 152(6) adds an exception: “...*the Auditor General shall be independent and shall not be subject to the direction or control of any person or authority EXCEPT by a court of law or as otherwise prescribed by written law*” which we submit undermines the OAG independence in several ways:

- i. *Judicial Intervention:* This exception could lead to situations where the work of the OAG is influenced and/or hampered by legal proceedings (which can take many years to complete) or the judgments of the court. If the judiciary becomes involved in decisions about audit processes or findings, this may limit the OAG's ability to operate freely and independently. In our respectful submission, audit processes and matters of a technical nature should not be within the remit of court process. That is not to say the Auditor General should be unaccountable, rather careful consideration ought to be given to providing clear grounds in which a court can intervene that do not unreasonably constrain the work of the Auditor General.
- ii. *Written Law:* The phrase "as otherwise prescribed by written law" opens the door for legislators to enact laws that could impose restrictions or controls over the OAG's activities. This could be used to create mechanisms that influence how audits are conducted, which areas are prioritized, or how reports are produced and disseminated. Such laws could compromise the OAG's autonomy by subjecting them to political or governmental interests. Laws are legislated by Parliament and political objectives can serve to undermine the independence of the OAG.
- iii. *Political Influences:* If the Auditor General can be influenced by the judiciary or legislative bodies through legal mandates, it could lead to a scenario where audit decisions are indirectly or directly swayed by political considerations. This connection may deter the Auditor General from pursuing certain audits or publishing findings that may be politically sensitive or unfavourable to those in power.
- iv. *Perception of Independence:* The perception of independence is crucial for the credibility of the Auditor General's office. Any legal frameworks or court interventions that appear to infringe upon the Auditor General's ability to function without outside influence may erode public trust in the integrity of its reports and findings. Perception extends to the Auditor General's office being adequately resourced with sufficient funds & resources including qualified staff who are paid competitive rates to perform their role.
- v. *Risk of Control:* If additional laws or regulations are introduced that dictate how the Auditor General should operate or handle specific cases, this could effectively place the office under control of other government branches, negating its role as an independent overseer of public finances. While the exceptions laid out in the constitution may be intended to provide checks or oversight, they can inadvertently create a situation where the Auditor General's actions are subject to external influences, thereby undermining the fundamental principle of independence that is vital for effective audit functions.

7. Delay by government departments, statutory bodies and other entities required to submit accounts in the provision of those accounts also serve to undermine the independence and proper functioning of the Auditor General. This is evident when outdated reports of many years ago are now being tabled in Parliament. Timeliness of reports being tabled and discussed is crucial to financial accountability. If they are presented too late very little can be done to address the areas of concern. This also results, as we have seen in past years, in unwarranted attacks in Parliament and media on the Auditor General that have been used as an excuse to terminate the holder of the office and/or further weaken its integrity.
8. ***Recommendation:*** An amendment to Article 152 of the 2013 Constitution must be made to ensure complete independence of the OAG. Alternatively, insert a new provision that clearly articulates the grounds which a court can intervene that do not unreasonably constrain the work of the OAG and where possible the process to be taken.

9. **INTEGRATION OF TECHNOLOGY IN AUDITING**

Leveraging technology and digital tools empowers the OAG to enhance its effectiveness, deliver more robust audits, and provide greater accountability in public finance management. The reliance on traditional manual audit methods under the Bill, is a significant issue in today's rapidly changing technological landscape.

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Example provision from the UK:

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15. **ENHANCED REPORTING REQUIREMENTS**

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16. While the discretion given to the Auditor General to ‘publish reports by any means deemed appropriate’ is a valuable tool for enhancing public accountability, it is our view that it is not sufficient.
17. For this discretion to translate into meaningful accountability, there should also be a framework that ensures regular publication, mandates transparency, and encourages engagement with the public.
18. Additionally, safeguards should be in place to prevent potential abuses of discretion, ensuring that findings are communicated effectively to promote understanding and facilitate action based on audit recommendations. Integrating clear guidelines and public education efforts can help maximize the effectiveness of this discretion in promoting genuine accountability.
19. **Recommendation:** The Bill should mandate comprehensive and transparent reporting by the Auditor General, including the requirement to present audit findings to Parliament AND to make them publicly available and accessible.

Example Clause from Sweden:

"The Auditor General shall submit an annual report to Parliament detailing the audit findings, conclusions, and recommendations, which shall be made publicly available."

20. **PROFESSIONAL DEVELOPMENT AND TRAINING**

To ensure that the Auditor General and their staff are equipped with the latest skills and knowledge, the Bill should mandate ongoing professional development. This means the OAG must be adequately resourced and funded to ensure its staff is trained regularly, paid competitive salaries and provided with the requisite technology to perform their role independently.

21. **Recommendation:** Inclusion of an appropriate new clause under s5 (6).

Example Clause from the USA:

"The Office of the Auditor General shall establish a program for the continuous professional education and training of its staff in accordance with recognized standards."

22. **STAKEHOLDER ENGAGEMENT AND TRANSPARENCY**

The public has a vested interest in knowing the accounts and findings of the OAG for several important reasons, all of which contribute to the fundamental principles of democracy, accountability, and good governance. Incorporating stakeholder engagement and transparency as core functions of the OAG enhances the effectiveness of the auditing process and contributes to

stronger public financial management. These roles enable the OAG to foster a collaborative environment, enhance public trust, and drive improvements in accountability and governance.

23. It is fundamentally the public's 'business' to know the accounts and findings of the OAG because these reports reflect how public resources are managed, the effectiveness of government operations, and the overall integrity of public financial management. Access to this information fosters accountability, transparency, and active citizen engagement, which are vital for a healthy, functioning democracy.
24. An informed public can engage meaningfully with the government, promoting better governance outcomes and ensuring that public officials are held accountable for their actions. By actively engaging with stakeholders and promoting transparency, the OAG can help ensure that the audit function not only identifies issues but also contributes to meaningful change in the public sector.
25. **Recommendation:** The Bill should promote stakeholder engagement in the audit process, allowing for public consultations and feedback on audit reports.

Example Clause from the European Court of Auditors:

"The Auditor General shall engage with stakeholders, including civil society, to gather input and feedback on audit processes and findings."

26. **PENALTIES**

The Bill does not contain any penalties, nor does it give the OAG any powers to do so. We are of the view that the absence of penalties in the Bill can have significant implications on the functions of the OAG and the overall effectiveness of the auditing process.

27. The absence of penalties in the Bill significantly undermines the potential effectiveness and authority of the OAG. To ensure meaningful enforcement of audit recommendations, accountability for financial governance, and public trust in government operations, it is critical that the Bill includes mechanisms for penalties. Without these provisions, the functions of the OAG may be diminished, and the overall goal of promoting transparency and accountability in public finance compromised.
28. **Recommendation:** Specific penalties could help ensure compliance, accountability, and ethical conduct among public officials, entities being audited, and the auditors themselves. We have provided below some potential penalties that could be included from other jurisdictions:

i. Penalties for Non-Compliance by Audited Entities:

- ***Fines:*** Imposing monetary fines on public entities that fail to comply with audit requirements, such as not providing necessary documents, delaying access to records, or failing to implement audit recommendations.
- ***Exclusion from Future Funding:*** Preventing entities from receiving future government funding or grants if they do not comply with audit protocols or submit to audits.

ii. Penalties for Misconduct by Public Officials:

- ***Disciplinary Action:*** Enabling disciplinary measures, including suspension or termination of employment, for public officials found to be obstructing audits or misrepresenting information during the auditing process.
- ***Criminal Charges:*** Establishing provisions for criminal prosecution in cases of fraudulent activities, evidence tampering, or any actions that intentionally mislead auditors.

iii. Penalties for Auditors:

- ***Revocation of License:*** Allowing for the suspension or revocation of the certification or license of auditors who fail to adhere to professional standards or ethical guidelines, including negligence or misconduct.
- ***Fines for Negligence:*** Implementing fines for auditors whose negligence leads to significant oversight or failure to identify fraud or mismanagement in their audit reports.

iv. Public Disclosure of Non-Compliance:

- ***Public Reports:*** Mandating the disclosure of non-compliance findings in audit reports to enhance public accountability. This would include publishing names of entities that fail to adhere to audit requirements, making the information accessible and transparent to the public.

v. Legal Repercussions for Obstruction:

- ***Contempt of Audit Authority:*** Stipulating penalties for individuals or entities who intentionally obstruct the audit process, such as failing to provide requested documentation or hindering auditors' access to necessary records.
- ***Injunctions:*** Allowing the Auditor General to seek injunctions against entities that refuse compliance, facilitating prompt legal recourse.

vi. Failure to Implement Recommendations:

- ***Reporting to Legislative Bodies:*** Requiring the Auditor General to report to the legislature or governing body on entities that consistently fail to implement audit recommendations, leading to potential political and operational repercussions.

vii. Failure to Report Financial Irregularities:

- ***Criminal Liability:*** Imposing criminal liability on public officials who fail to report financial irregularities uncovered during audits, ensuring that there are consequences for neglecting to act on known issues.

viii. Civil Penalties:

- **Restitution:** Allowing for civil suits against individuals or entities found to have committed financial misconduct as a result of audit processes, requiring restitution to affected parties or the state.

By incorporating these penalties, the Bill can enhance the integrity and effectiveness of the auditing process, ensuring that all parties involved take their responsibilities seriously. These penalties can serve as deterrents against non-compliance and misconduct, promoting a culture of accountability and transparency in public financial management.

In conclusion, as we prepare to repeal the Fiji Audit Act 1969, it is crucial to establish a modern framework that enhances the independence, transparency, and effectiveness of the Office of the Auditor General. We urge the Parliamentary Committee to consider these recommendations and example clauses from other jurisdictions to ensure our auditing practices are robust and aligned with international best practices.

The Society looks forward to the opportunity to contribute further to this important legislative process.

Yours faithfully

FIJI LAW SOCIETY



William Wylie Clarke

PRESIDENT



MINISTRY OF FINANCE, STRATEGIC PLANNING, NATIONAL DEVELOPMENT AND STATISTICS

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13 November 2024

File: 10/1/69

By E-mail/Hand Delivery

Honorable Esrom Immanuel
Chair of the Public Accounts Committee
Parliament House
Government Building
SUVA

Dear Honorable Chair

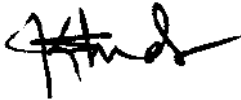
WRITTEN SUBMISSION ON THE AUDIT BILL (BILL NO. 17 OF 2024)

1. We refer to your letter dated 17 October 2024 requesting the Ministry to provide written submission on areas that require changes and provide views on how to improve the contents of the Audit Bill ('**Bill**').
2. Given that the Audit Act 1969 (**Act**) is under the Ministerial assignment of the Minister for Finance, Strategic Planning, National Development and Statistics, the Ministry has been involved in the review process from an early stage when the review of the Act was initiated. The Ministry has been working in close consultation with the Office of the Solicitor-General and Office of the Auditor-General (**OAG**) on the drafting of the Bill.
3. The Review of the Act was one of the Public Financial Management Reform Policy Action for FY2023/2024 to improve external scrutiny and audit with a focus in the following areas:
 - Recognize OAG as an independent office and the general role of the Auditor-General;
 - Protection from liability that protects the Auditor-General, staff of the Office, independent auditors from being personally liable for an act or omission in performing a function under the Act;
 - Inclusion of the mandate of the Auditor-General to perform functions as stipulated in section 152 of the Constitution of the Republic of Fiji;
 - Inclusion of the authority to conduct special investigations, performance audits and compliance audits and report on the findings of these audits to Parliament;
 - An expansion of the laws that cover reporting on significant matters, that the Auditor-General wishes to bring to the attention of Parliament, arising from audits, special investigations and any reviews of audits conducted;
 - Timing and publication of reports;
 - Procedural fairness whereby any person referred to in the audit findings is given reasonable time to comment by which these comments forms part of the Audit report; and
 - The ability for OAG to carry out audits on non-public entities where public interest requires but only upon request.

4. On the other hand, **sections 64** of the ***Financial Management Act 2004*** recognises the mandate of the Internal Audit and Good Governance Division (**IAGG**) within the Ministry in relation to any internal audit. It should be noted that the OAG and IAGG are in their early stage of drafting a Memorandum of Understanding to enhance their cooperation as far as audit is concern.
5. In light of the above, the Ministry fully supports the Bill as it has covered the areas of concern that contributed to an improved Public Financial Management System for Fiji.

Thank you.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Shiri Gounder', written in a cursive style.

Shiri Gounder

**Permanent Secretary for Finance and Strategic Planning,
National Development and Statistics**

OFFICE OF THE AUDITOR GENERAL

PRESENTATION ON THE AUDIT BILL (BILL NO. 17 OF 2024)

14 OCTOBER 2024

Sections	Audit Bill 2024	OAG Comments
1 and 2	Short Title and Interpretations	Provides interpretation of key terms used in the legislation.
3 – Auditor General	<p>1. The Auditor-General shall not hold any office of profit under the State other than the office of the Auditor-General.</p> <p>2. The provisions of the law and regulations relating to the civil service shall apply to the Auditor-General, except where such provisions are in conflict with the provisions of the Constitution of the Republic of Fiji, this Act or any other law for the time being in force.</p>	Provision is consistent with the Audit Act 1969
4 – Acting Auditor General	Any person appointed to act as the Auditor-General has and may exercise all the powers and authority of, and must perform the duties imposed on, the Auditor-General by the Constitution or any other written law during the period in which he or she acts as the Auditor-General.	Provision is consistent with the Audit Act 1969

Sections	Audit Bill 2024	OAG Comments
<p>5 – Office of the Auditor General</p>	<p>Office of the Auditor General</p> <p>5(1) The Office of the Auditor-General is an independent office for the purposes of Financial Management Act 2004 and the Auditor-General is the responsible authority for the Office of the Auditor-General in accordance with that Act.</p> <p>(2) The Auditor-General must ensure that all revenues of the Office of the Auditor- General are paid into a bank account in the name of the Office of the Auditor-General maintained for that purpose.</p> <p>(3) The revenues of the Office of the Auditor-General comprises—</p> <p>a) money appropriated to the Office of the Auditor-General as an independent office under an Appropriation Act;</p> <p>b) audit fees;</p> <p>c) any grant or development funding received by the Office of the Auditor- General; and</p> <p>d) any other revenue lawfully received by the Office of the Auditor-General.</p> <p>(4) The Auditor-General has control of the funds of the Office of the Auditor-General held in its bank account, and may</p>	<p>Replace of initial Section 5 (1969 Act) – ‘Staff of Audit Department’ (for a new comprehensive section titled “Office of the Auditor General.</p> <p>This provision modernizes the Act by recognizing the Office of the Auditor-General as an entity, in accordance with the Constitution and for controlling its resources, budgeting, management, human resources (employment), contractors, engagement of experts and reporting purposes.</p> <p>Clearly defines the composition of “Revenue”.</p> <p>Provides that the Auditor-General retains the audit fees.</p> <p>Align with International Standards on SAI Independence to effectively operate as an Independent Body.</p>

Sections	Audit Bill 2024	OAG Comments
5 – Office of the Auditor General (con’t)	<p>determine the expenditure of such funds in the manner as the Auditor-General thinks fit.</p> <p>(5) The Auditor-General has the authority to employ staff and engage contractors, and the authority to determine all matters pertaining to their employment or engagement, in accordance with section 152(6) and (7) of the Constitution.</p>	
6 – Powers of the Auditor General	<p>Powers of the Auditor General</p> <p>6(1), In the performance of his or her functions under section 152 of the Constitution and of his or her functions and duties under this Act, the Auditor-General may—</p> <p>a) call on any officer, member, employee, or contractor of a public entity for any explanation and information that may be required;</p> <p>b) authorise any officer of a department on his or her behalf to conduct any inquiry, examination or audit, and such officer must report to him or her, provided that any such authority must be subject to the concurrence of the head of the department in which the officer concerned is employed;</p>	<p>Section 6(1), (2) and (3) are similar provisions to the 1969 Act. The provisions clearly align with section 152 of the Constitution.</p> <p>Clearly outlines the powers of the Auditor-General. More clarity provided for the Auditor-General and his delegates in accessing public entities premises and records in line with international norms (Mexico Declaration Principle 4 – SAI independence).</p>

Sections	Audit Bill 2024	OAG Comments
<p>6 – Powers of the Auditor General (con’t)</p>	<p>c) without payment of any fee, cause a search to be made in and extracts taken from, any book, document or record in the office of any public entity;</p> <p>d) examine on oath, declaration or affirmation (which oath, declaration or affirmation the Auditor-General is empowered to administer) any person whom he or she may think fit to examine the receipt or expenditure of money or receipt or issue of any stores affected by this Act and respecting all other matters and things whatsoever necessary for the due performance and exercise of the duties and powers vested in him or her;</p> <p>e) lay before the Attorney-General in writing, any question regarding the interpretation of any written law concerning the discharge of his or her duties, and the Attorney-General must provide a written opinion on such question; and</p> <p>f) obtain legal advice from private practice in circumstances considered appropriate by the Auditor-General.</p> <p>(2) In the performance of his or her functions and duties under section 152 of the Constitution and this Act, the Auditor-General or any person duly authorised by the Auditor-General is entitled—</p>	

Sections	Audit Bill 2024	OAG Comments
<p>6 – Powers of the Auditor General (con’t)</p>	<p>a) to have access to all records, books, accounts, vouchers or documents, cash stamps, securities, stores or other Government property under the control of any person or authority; and</p> <p>b) to enter the premises of any public entity, or send for and have the custody of any records, books, accounts, vouchers or documents under the control of such person or authority, and to keep such records, books, accounts, vouchers or documents for such time as he or she may require them.</p> <p>(3) Any person examined under subsection (1)(d) who gives a false answer to any question put to him or her or makes a false statement on any matter knowing that answer or statement to be false or not knowing or believing it to be true, commits an offence.</p>	

Sections	Audit Bill 2024	OAG Comments
<p>6 – Powers of the Auditor General (con’t)</p>	<p>(4) For the avoidance of doubt, the powers in subsection (2) include powers to—</p> <ul style="list-style-type: none"> a) access, including by electronic means, any document, information, or record, recorded or stored electronically and any electronic system within which information is recorded or stored or of which it forms part; b) require production or creation of a password or other security protocol which may otherwise restrict the Auditor-General’s access to such information; and c) use software to interrogate or interpret the information in such manner as the Auditor-General considers appropriate. 	<p>Section 6(4) is a new provision which clearly provides mandate to the Auditor-General to access data maintained electronically. This provision is benchmarked to New Zealand Public Audit Act.</p> <p>There is also clear mandate to use software to interrogate or interpret the information.</p>

Sections	Audit Bill 2024	OAG Comments
<p>7 – Code of Ethics</p>	<p>Code of Ethics.</p> <p>7(1) The auditing standards under section 15 must include the code of ethics for public sector auditors with amendments or additions as the Auditor-General considers appropriate.</p> <p>(2) The Auditor-General or any Acting Auditor-General and all staff or contractors must comply with the code of ethics at all times and any material breach of the code of ethics must be treated as a disciplinary matter.</p>	<p>Section on Code of Ethics is a new provision.</p> <p>Requirements included for auditors to follow the international code of ethics for public sector auditors and contractors as a basis for their ethical conduct.</p> <p>These are the International Ethics Standards Board for Accountant’s Code of Ethics for Professional Accountants (IESBA Code) together with the ethical requirements that are relevant to the audit of the financial statements in Fiji.</p>

Sections	Audit Bill 2024	OAG Comments
8	<p>Delegation of Powers</p> <p>8(1) The Auditor-General may delegate to any employee or contractor any function, duty or power of the Auditor-General <u>other than the function of certifying and reporting accounts to Parliament.</u></p> <p>8(2) A delegation—</p> <ul style="list-style-type: none"> a) must be in writing; b) may be made subject to any restriction or condition the Auditor-General thinks fit; c) is revocable at any time, in writing; and d) does not prevent the performance or exercise of a duty, function or power by the Auditor-General. <p>8(3) A person to whom any function, duty or power is delegated may perform the function or duty or exercise power in the same manner and with the same effect as if it had been conferred directly by this Act and not by delegation.</p> <p>8(4) A person purporting to act under a delegated authority is presumed to be acting in accordance with its terms in the absence of evidence to the contrary.</p>	<p>The is a new section replacing the original section in the 1969 Act which was “contracting out of audit and special investigation:</p> <p>This section allows the Auditor-General to delegate to any employee or contractor any function, duty of power of the Auditor General.</p> <p>It is important to note that the Auditor General retains the responsibility of certifying the audit and reporting to Parliament.</p>

Sections	Audit Bill 2024	OAG Comments
<p>9</p> <p>Protection from Liability</p>	<p>– Protection from Liability</p> <p>9(1) This section applies to—</p> <p>a) the Auditor-General and any acting Auditor-General, in his or her personal capacity;</p> <p>b) staff of the Office of the Auditor-General and every contractor, in connection with their performance or exercise of the Auditor-General’s functions, duties or powers under the delegated authority from the Auditor-General;</p> <p>c) every person under a delegated authority under section 8; and</p> <p>d) any independent auditor appointed.</p> <p>9(2) No person to whom this section applies is personally liable for an act or omission in connection with performing a function or duty, or exercising a power, under this Act unless the act or omission was done in bad faith.</p> <p>9(3) Subsection (2) does not limit any disciplinary functions, powers or duties of any person or body that apply to any person to whom this section applies by virtue of his or her membership of a professional body.</p>	<p>This reform protects the Auditor-General and staff from liability, within the course of duties under the new legislation.</p> <p>It applies to the Auditor-General and Acting Auditor-General, and to any employee or contractor for the purpose of exercising any delegated authority.</p> <p>The provision does not establish an institutional immunity for the Auditor-General as a public office, or the Office of the Auditor-General. Like any other organization, a SAI should be subject to the rule of law. The immunity provision therefore does not extend to the institution.</p> <p>This provision is in line with the Mexico Declaration Principle 2 – SAI independence protection from external threats and influence.</p>

Sections	Audit Bill 2024	OAG Comments
<p>10 – Mandate of the Auditor-General</p>	<p>Mandate of Auditor General</p> <p>10(1) The Auditor-General is the auditor of every public entity and in that capacity has the authority to—</p> <ul style="list-style-type: none"> a) conduct a financial audit; b) conduct a special investigation; c) conduct a performance audit; d) conduct a compliance audit; e) review an audit undertaken by another auditor; and f) report to Parliament and any other person in accordance with this Act, subject to any power of a Minister or an entity under any written law, to appoint another auditor to carry out a financial audit of a public entity. <p>10 (2) The mandate of the Auditor-General under subsection (1) has effect despite any contrary provision in—</p> <ul style="list-style-type: none"> a) any other written law in force immediately before the commencement of this Act; or b) a company’s memorandum or articles of associations or other government instrument. 	<p>Provision singles out to explain the nature and extent of the mandate of the OAG that meets international standards and good practices in line with the Mexico Declaration Principle 2 – SAI independence.</p> <p>Gives clear mandate for financial, performance, special investigation, compliance audit, and review an audit where audit is undertaken by another auditor and report to Parliament.</p>

Sections	Audit Bill 2024	OAG Comments
<p>10 – Mandate of the Auditor-General (con’t)</p>	<p>10 (3) Nothing in subsection (1) affects any other provision of this Act under which the Auditor-General may, or may be required or requested to, carry out an audit in respect of any entity that is not a public entity under this Act.</p> <p>10(4) The Auditor-General may appoint a suitably qualified person to conduct a financial audit, special investigation or performance audit, or to review an audit carried out by another auditor on behalf of and subject to the supervision or oversight of the Auditor-General.</p> <p>10 (5) A person appointed under subsection (4)—</p> <ul style="list-style-type: none"> a) is responsible to the Auditor-General for conducting the audit, investigation or review to which the appointment relates in accordance with the auditing standards including the code of ethics; and b) has and may exercise, in relation to the audit, investigation or review, all the powers of the Auditor-General under section 6, other than the power to administer an oath, declaration or affirmation or the power to obtain a legal opinion, subject to any limitation, term or condition specified by the Auditor-General in the instrument of appointment or auditing standards or otherwise in writing. 	<p>Subsection 10(4) provides that the Auditor-General may appoint a suitably qualified person to undertake audits on behalf of the Auditor General.</p>

Sections	Audit Bill 2024	OAG Comments
<p>11 – Duties of the Auditor General</p>	<p>Duties of Auditor-General</p> <p>11(1) In addition to performing the functions of the Auditor-General under section 152 of the Constitution, the Auditor-General has, on behalf of Parliament, the following duties—</p> <p>a) to audit for each financial year—</p> <ul style="list-style-type: none"> i. the accounts of the Consolidated Fund; and ii. the whole of Government financial statements and annual appropriation statement required to be included in the whole of Government annual report for a financial year under the Financial Management Act 2004; and <p>b) to audit for each financial year—</p> <ul style="list-style-type: none"> i. the accounts of all public entities that are required by law to produce such accounts and have them audited, except a public entity in respect of which another auditor has been appointed by or under this Act or another Act to carry out the audit of the public entity’s accounts for that financial year; and ii. the financial statements and any non-financial performance report required to be audited and 	<p>Amends the Auditor General’s function to current international norms that were initially based on an historical form or model under the Westminster system of Government, captures the changes as well in public financial management practices over the years.</p> <p>It captures the wider role of the OAG mandate rather than just financial audits.</p> <p>Provision singles out to explain the different types of audits under the mandate of the OAG that meets international standards and good practices in line with the Mexico Declaration Principle 2 – SAI independence.</p> <p>Requirements are subject to auditing standards that are continuously updated or reviewed.</p>

Sections	Audit Bill 2024	OAG Comments
<p>11 – Duties of the Auditor General (con’t)</p>	<p>included in such a public entity’s annual report for a financial year</p> <p>11(2) In addition to the requirements of the auditing standards, the Auditor-General must satisfy himself or herself in respect of each audit of the accounts of a public entity under this section that—</p> <ul style="list-style-type: none"> a) the accounts have been presented fairly in all material respects and properly kept; b) expenditure has been properly authorised, properly applied and otherwise properly accounted for; c) where applicable, all reasonable precautions have been taken to safeguard the collection of public money, trust money and other money within the meaning of this Act, and that the laws, directions and instructions relating to the collection have been duly observed; d) where applicable, expenditure of money appropriated by Parliament has been applied to the purposes for which the money was appropriated; and e) the provisions of the Constitution and the Financial Management Act 2004, and of any other written law relating to money or property subject to his or her audit, have been complied with in all material respects. 	<p>This provision is in line with the requirement of Internation Standards on Auditing in relation of forming an opinion.</p>

Sections	Audit Bill 2024	OAG Comments
<p>11 – Duties of the Auditor General (con’t)</p>	<p>11(3) Subject to the auditing standards, the Auditor-General must give—</p> <ul style="list-style-type: none"> a) an audit opinion on each set of accounts or financial statements and where applicable, each non-financial performance report, that has been audited; and b) an audit management report to the responsible authority for the entity that is the subject of the audit. <p>11(4) If any other written law provides that a financial audit is to or may be carried out by a person other than the Auditor-General—</p> <ul style="list-style-type: none"> a) the audit is to be conducted by a person appointed and in the manner provided under the written law relating to the entity; or b) to the extent that the written law does not make provision for those matters under paragraph (a), the audit is to be conducted by a person appointed or in the manner provided for, or both, under the written law referred to in paragraph (a). 	<p>Section 11(4) provides clarity on situations where the audit may be carried out by a person other than the Auditor-General.</p>

Sections	Audit Bill 2024	OAG Comments
<p>11 – Duties of the Auditor General (con’t)</p>	<p>11(5) The Auditor-General must review the results of the audit in accordance with section 152(12) of the Constitution and auditing standards.</p> <p>11(6) The written law may provide for the appointment, by the Minister or by the responsible authority for the entity, of a person of a specified class as auditor for the entity, and for the manner of conducting the audit, in the circumstances referred to in subsection (4)(b).</p> <p>11(7) For the avoidance of doubt, subsection (1)(b) extends to the audit of the accounts of all money received or held by a public entity, whether or not for the purposes of Government.</p>	

Sections	Audit Bill 2024	OAG Comments
<p>12 – Special Investigation</p>	<p>Special investigations</p> <p>12(1) The Auditor-General may, on request by the Prime Minister, Minister or Parliament, or at the Auditor-General’s discretion, conduct a special investigation into—</p> <p>a) any matter concerning financial decision-making or financial management or the use of assets or other resources by a public entity; or</p> <p>b) any act or omission showing or appearing to show a lack of probity or financial prudence by a public entity or one or more of its members, office holders, employees or contractors.</p> <p>12(2) A special investigation may, at the Auditor-General’s discretion, be conducted—</p> <p>a) as a stand-alone investigation or as an investigation in conjunction with a compliance audit, financial audit or performance audit; and</p> <p>b) (b) in respect of one or more public entities.</p>	<ul style="list-style-type: none"> • Amends the Auditor-General’s function to current international norms as an integrity institution performing watchdog roles in the modern era together with other integrity institutions. • It captures the wider role of the OAG mandate rather than just financial audits by supplementing its core auditing role. It is not a complaints or law enforcement body. • It focuses on matters of public importance under its watchdog responsibilities (not fraud detectors but matters of probity in general) • Provision singles out to explain this type of audit under the mandate of the OAG that meets international standards and good practices in line with the Mexico Declaration Principle 6 – SAI independence. • It must be independent from the request initiators.

Sections	Audit Bill 2024	OAG Comments
<p>13 Performance Audit</p>	<p>Performance audits</p> <p>13(1) The Auditor-General may at any time conduct a performance audit of one or more public entities.</p> <p>13(2) A performance audit may examine—</p> <p>a) the extent to which a public entity is carrying out its activities effectively, economically and efficiently; or</p> <p>b) any act or omission of public entity, in order to determine whether waste has resulted or may have resulted or may result.</p> <p>13 (3) A performance audit may, without limitation, include—</p> <p>a) an environmental audit; or</p> <p>b) an audit of a public entity’s information technology systems.</p> <p>13(4) The Auditor-General must determine—</p> <p>a) the intervals at which performance audits of a particular entity or entities are to be conducted; and</p>	<ul style="list-style-type: none"> • Amends the AG’s function to current international norms in performing this type of audit to any public entity also in line with the Mexico Declaration Principle 3 – SAI independence. • Clarifies and covers the audits of environment and IT systems under PA field to avoid confusion. These fields are real issues in the modern era. • OAG still cannot question the merits of Govt. policy objectives (consistent with international approach).

Sections	Audit Bill 2024	OAG Comments
<p>13 Performance Audit (con't)</p>	<p>b) the number of performance audits to be conducted in each financial year.</p> <p>13 (5) Nothing in this section entitles the Auditor-General to <u>question the merit of policy objectives of the Government.</u></p> <p>13(6) In this section, “policy objectives” includes—</p> <p>a) a Government policy direction of a Minister; b) a policy statement in a budget paper; (c) a statement of objectives in a corporate plan approved by a Minister; or (d) any other document that provides a policy decision of the Government or a Minister.</p>	
<p>14 – Compliance Audit</p>	<p>Compliance audits</p> <p>14(1) The Auditor-General may at any time conduct an audit of a public entity’s compliance with its obligations.</p> <p>14(2) A compliance audit may be conducted on a stand-alone basis, or in conjunction with a financial audit or a performance audit.</p>	<p>A separate mandate element with broader scope added to the AG’s function in line with current international norms in performing this type of audit to any public entity. Also, in line with the Mexico Declaration Principle 3 – SAI independence.</p> <p>This will enable the Auditor-General to audit and provide assurance on</p>

Sections	Audit Bill 2024	OAG Comments
<p>14 – Compliance Audit (con’t)</p>	<p>14 (3) For the purpose of this section, an obligation in relation to a public entity includes—</p> <ul style="list-style-type: none"> a) a duty or obligation under a written law; b) a rule, order or instruction issued by a competent authority that is binding on the public entity; c) an obligation under a contract; and d) a requirement of a policy, plan, or other instrument established by the public entity. 	<p>compliance with any form of obligation, policy or plans, orders or directions from internal or externally established requirements.</p>
<p>15 – Auditing Standards</p>	<p>Auditing standards</p> <p>15(1) The Auditor-General must conduct any audit or special investigations, or review an audit conducted by other auditors, in accordance with—</p> <ul style="list-style-type: none"> a) international auditing standards applicable to supreme audit institutions, subject to such modifications as the Auditor-General considers appropriate and notifies in the Gazette; or b) any other relevant standards that the <u>Auditor-General considers appropriate and notifies in the Gazette.</u> <p>15(2) Subject to the auditing standards, the Auditor-General may conduct an audit or a special investigation, or review an</p>	<p>Modernizes the existing Section 6(3) to current good international practices where the Auditor-General sets the standards consistent to his/her independence.</p> <p>Where the international auditing standards do not provide a suitable approach (which could be the case, for example, for a special investigation or a review of an audit), the Auditor-General can adopt such other standards as may be appropriate.</p> <p>A publication requirement ensures transparency.</p>

Sections	Audit Bill 2024	OAG Comments
15 – Auditing Standards (con’t)	audit, in such manner as he or she considers appropriate, and must do so in a competent manner, having regard, where applicable, to the character of, and his or her assessment of the effectiveness of, any relevant internal control system of the public entity being audited or investigated.	
16 – Secrecy	<p>Secrecy</p> <p>16(1) The operation of section 10 is not limited by any provision including a provision relating to secrecy contained in any other written law except to the extent to which any such written law expressly excludes the operation of that section.</p> <p>16(2) Notwithstanding anything contained in any other written law and notwithstanding the making of any oath or declaration of secrecy, a person is not guilty of an offence by reason of anything done by him or her for the purposes of section 10.</p> <p>16(3) The Auditor-General or any other person must not divulge or communicate, except in the course of duty to another person performing duties under this Act, any information which has come to his or her knowledge directly or indirectly in accordance with section 10 in any case in which the person from whom such information has been</p>	Prohibits the Auditor-General or any other person performing duties from unauthorised communication of information that has come to his or her knowledge.

Sections	Audit Bill 2024	OAG Comments
<p>16 – Secrecy (con’t)</p>	<p>obtained, or from whose custody were produced, the accounts, books, documents or papers from which such information was derived could not, but for the provisions of this Act, lawfully have divulged that information to the Auditor-General or such other person.</p> <p>16 (4) Subsection (3) does not prevent—</p> <ul style="list-style-type: none"> a) the making, divulging or communicating in any report of the Auditor-General of conclusions, observations or recommendations which are based on information obtained in accordance with section 10; and b) (b) does not prevent the divulging or communicating of information obtained in accordance with section 10, on request in writing to the Commissioner of Police. 	

Sections	Audit Bill 2024	OAG Comments
<p>17 – Notification of serious irregularities</p>	<p>17.(1) If, at any time in the opinion of the Auditor-General, serious irregularities have occurred in the receipt, custody, or expenditure of public money or in the receipt, custody, issue, sale, transfer or delivery of any stamps, securities, stores or other property of a public entity or in the accounting for the same, he or she must bring the matter to the notice of—</p> <p>a) the Minister, where the public entity concerned is a State entity;</p> <p>b) the Minister responsible for local government where the public entity concerned is a local authority;</p> <p>c) the responsible authority for, or person charged with the governance of, the public entity; or</p> <p>d) the Minister responsible for the public entity.</p> <p>(2) The Auditor-General may notify—</p> <p>a) law enforcement agency about any matter which, in the Auditor-General’s opinion, may justify the investigation of a potential criminal offence; or</p> <p>b) the Public Service Commission about any matter concerning the conduct of a civil servant which, in the Auditor-General’s opinion, may raise a disciplinary matter in relation to that person.</p>	<ul style="list-style-type: none"> • Promotes the effective roles of a Supreme Audit Institution • Aligns provisions to modern Public Sector Integrity Framework, consistent practices with other integrity institutions, alignment with the UN Convention Against Corruption and International Auditing Standards for SAs. International norms of an ‘express pass’ in disclosing personal information to law enforcement agencies for serious irregularities found. • Ensure notification powers to Ministers and entities can apply to all public entities (including local authorities), and are supplemented by proposed powers to notify other agencies with integrity functions about any concerns the Auditor-General may have about suspected fraud or corruption or unethical behavior by a public servant.

Sections	Audit Bill 2024	OAG Comments
<p>18 – Audit of other Entities</p>	<p>18(1) The Auditor-General may, if requested by the entity concerned or the Minister, audit the accounts or financial statements of any entity (whether incorporated or otherwise) other than a public entity—</p> <p>a) to the extent necessary to ensure that any condition of any grant made to the entity by the State, the Government or a public entity has been complied with;</p> <p>b) if the entity’s borrowings have, in whole or in part, been guaranteed by the Government;</p> <p>c) if, in the opinion of the Minister, that it is in the public interest that the Auditor-General act as the auditor of the entity.</p> <p>18(2) When conducting an audit under subsection (1), the Auditor-General—</p> <p>a) has the same discretion and powers as if the entity were a public entity;</p> <p>b) applies the auditing standards that the Auditor-General considers appropriate to the nature of the audit; and</p> <p>c) if the audit was requested by the Minister, must send the audit opinion and any report on the audit to the Minister</p>	<ul style="list-style-type: none"> • Aligns Provisions to international good practices and proposed changes in the Act. • Continued emphasis of the Auditor-General to carry out audits of non-public entities (whether incorporated or unincorporated) where the public interest requires, but only on request to preserve the Auditor-General’s independence under the Constitution. • (including most Australian states) enables an Auditor-General to “follow public money” into an entity in this way. • The proposed section has flexibility as to whether the Auditor-General will assume the full role of the entity’s auditor, or just audit accounts to the extent necessary to meet the defined public interest. • This provision is invoked on the request of the Minister, or the entity concerned.

Sections	Audit Bill 2024	OAG Comments
18 – Audit of other Entities (con’t)	<p>who must table the report in Parliament at its next meeting.</p> <p>18(3) This section applies except as otherwise provided by any other written law, and does not apply to the audit of the accounts of public entities.</p>	
19 – Audit of the Office of the Auditor General	<p>Audit of the Office of the Auditor-General</p> <p>19(1) <u>The Speaker of Parliament may appoint</u> a natural person to audit the accounts of the Office of the Auditor-General for a term not exceeding 3 years.</p> <p>19(2) A person appointed under this section may be re-appointed for a further term or terms each not exceeding 3 years, but a period of at least 3 years must lapse between each such term.</p> <p>19(3) A person who is, or has been in the last 12 months, the Auditor-General or a member of the staff of the Office of the Auditor-General, cannot audit or be appointed to audit the accounts of the Office of the Auditor-General.</p>	<p>Provision consistent with the provision under the 1969 Act.</p>

Sections	Audit Bill 2024	OAG Comments
19 – Audit of the Office of the Auditor General (con’t)	19(4) The person appointed to conduct an audit under this section has, in relation to the audit, the powers and duties of the Auditor-General under this Act other than powers under section 10(1)(e) or (f), but must report the results of the audit to the Auditor-General for inclusion in a report to Parliament by the Auditor-General.	
20 Audit Fees	<p>Audit fees</p> <p>20.(1) The Auditor-General may, in accordance with guidelines approved by the Minister, set fees for audits and special investigations conducted under this Act.</p> <p>20(2) A public entity, or an entity of the type referred to in section 18, in relation to which an audit or special investigation is conducted under the Act must, on receipt of the relevant invoice, pay the fee set for the audit or investigation to the Auditor-General.</p> <p>20(3) Different fees may be set for different classes of audits or special investigations.</p>	<p>Provision consistent with the provision under the 1969 Act.</p> <p>Empowers the Auditor-General to set fees for any audit or special investigation conducted under the new legislation, in accordance with guidelines as approved by the Minister. This section also requires the relevant entity to pay such fees on receipt of an invoice for the conduct of such audit.</p> <p>Section 5 of the Audit Bill now provides for the audit fees to be retained by Auditor-General.</p>

Sections	Audit Bill 2024	OAG Comments
<p>21 Reports</p>	<p>21.(1) The Auditor-General’s report to Parliament under section 152(1) of the Constitution may include, in addition to matters specified in section 152(2) of the Constitution, a report on significant matters that the Auditor-General intends to bring to the attention of Parliament arising from the audits, any special investigation, or any review of audits, conducted by the Auditor-General in the preceding calendar year or financial year.</p> <p>21(2) In addition to reporting under subsection (1), the Auditor-General—</p> <ul style="list-style-type: none"> a) must report to Parliament the results of every performance audit; b) may report to Parliament the results of a special investigation; and c) may report to Parliament at any other time on any matter arising from the performance of the Auditor-General’s functions or powers, that the Auditor-General considers desirable to report on. <p>21(3) Nothing in this section implies that a single report cannot—</p>	<p>The 1969 Act currently does not contain a comprehensive set of reporting powers for the Auditor-General which falls short of international good practice. This new reform outlines the matters which the Auditor-General must report to Parliament on, including any matter that the Auditor-General may wish to bring to the attention of Parliament arising from any audit, special investigation or reviews of audits in the preceding calendar year or financial year.</p> <p>The provision aligns with international good practice. Principles 5 &6 of the Mexico Declaration for SAI independence stating that a SAI should not be restricted from reporting the results of its work and should report at least once every year, the declaration says that SAIs should be free to decide the content of their audit reports; to make observations and recommendations in their audit reports;</p>

Sections	Audit Bill 2024	OAG Comments
<p>21 Reports (con't)</p>	<p>a) combine the reports required by subsection (1) and required or permitted by subsection (2)(a) or (b); or b) be about 2 or more audits, special investigations or reviews of other audits or all of them.</p> <p>21(4) The annual report of the Office of the Auditor-General referred to in section 37A(3) of the Financial Management Act 2004 must, in addition to the matters specified in that section, contain an account of the activities of the Office of the Auditor-General in the financial year concerned and the Auditor-General's stewardship of the resources entrusted to the Office of the Auditor-General by appropriation.</p>	<p>and to decide on the timing of their audit reports except where specific reporting requirements are prescribed by law.</p> <p>Section 21(4) clearly outlines that the Auditor-General to produce annual report including the audited accounts of OAG.</p>

Sections	Audit Bill 2024	OAG Comments
<p>22 – Publication of Reports</p>	<p>22(1) A report of the Auditor-General to Parliament about a financial audit must be submitted to the Speaker of Parliament <u>within 9 months after the end of the financial year to which the audit relates or the date on which the financial statements were received for audit whichever is the latter</u>, or within a longer period appointed by resolution of Parliament.</p> <p>22(2) A report of the Auditor-General to Parliament about <u>a special investigation</u> must be submitted to the Speaker of Parliament not <u>later than 6 months</u> after the year in which the special investigation was completed or within a longer period appointed by resolution of Parliament.</p> <p>22(3) A report of the Auditor-General to Parliament about a <u>performance audit</u> must be submitted to the Speaker of <u>Parliament not later than 6 months</u> after the year in which the performance audit was completed or within a longer period appointed by resolution of Parliament.</p> <p>22(4) After submitting a report to the Speaker of Parliament under this section, the Auditor-General <u>may publish the report by any means</u> the Auditor-General considers</p>	<p>This provision provides for clear timelines of the publication of Report of the Auditor-General.</p> <p>This provision makes clear direction on publishing and disseminating the reports which is in line with Principle 4 of the Mexico Declaration on SAI Independence.</p>

Sections	Audit Bill 2024	OAG Comments
	appropriate, including on the official website of the Office of the Auditor-General.	
23 Procedural Fairness in Relation to Reports	<p>Procedural fairness in relation to reports</p> <p>23(1) Before finalising a report to Parliament containing any finding, conclusion or recommendation that could materially affect the interests or reputation of any person (including, without limitation, a public entity or any member, officer, employee, or contractor of a public entity), the Auditor-General must give that person a reasonable opportunity to comment.</p> <p>23(2) If a person referred to in subsection (1) provides written comments on the Auditor-General’s intended finding, conclusion or recommendation affecting that person within the period specified by the Auditor-General, the Auditor-General must take the comments into account when finalising the report and, if the comments are not accepted in whole or in part, include the substance of the comments in the finalised report.</p>	<ul style="list-style-type: none"> • Aligns with International good practice. Principle 6 of the Mexico declaration safeguards the Auditor Generals use of reporting powers especially from legal challenge. • Anticipates that the SAI’s reports will “take into consideration, as appropriate, the views of the audited entity”. By applying the provision also to individuals, it would ensure that the Auditor-General acts consistently with the principles of natural justice. • Fairness in its audit reports as would expected from public entities by leading by example in itself.

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**FIJI REVENUE AND
CUSTOMS SERVICE**

13 November 2024

Honourable Esrom Y. Immanuel
Chairperson
Public Accounts Standing Committee
Parliament of Fiji
Government Building
Suva

Dear Sir,

RE: Response to Written Submission on the Audit Bill (Bill No. 17 of 2024)

The Audit Bill 2024 repeals the Audit Act 1969. The provision in the new Bill aligns to international standards and best practices. The Audit Bill is now simplified, some sections have been extended with new provisions and there are some new provisions which aligns to international standards.

The international auditing standards has transformed, and Fiji needs to move in the same direction. Therefore, the proposed Bill provides more clarity on the different types of audits which are outlined in Section 12, 13, 14 and 15. The Bill also includes both the environmental and information technology audits.

The proposed Bill has further enhanced the power and independence of the Office of the Auditor General (OAG). OAG will freely operate on its own accord having its discretionary powers to influence funds and engage staffs. This change is aligned to good governance, where independence is the key pillar in the operation of this high esteem office.

The proposed Bill will clearly determine the audit fees and penalty structure. This will ensure consistency and transparency in the levying of fees and the charging of penalties.

However, FRCS wishes to highlight the following points for the committee's consideration:

- Section 44(5) of the FRCS Act stipulates that the statement of accounts of the Service shall be audited by such auditor as the Minister appoints upon the recommendation of the Audit Committee. The proposed Bill authorises the Auditor General to audit the accounts of **all** Public Entities, and this may interfere with the FRCS Act.
- Section 19 of the Bill requires the Speaker of Parliament to appoint a natural person to audit the accounts of OAG. The person appointed to conduct the audit is required under the Bill to provide a report to the Auditor General for inclusion in the report to parliament by Auditor General. This process is not in accordance with good governance. FRCS propose that the audit findings is reported directly to the appointing authority which is the Speaker of Parliament.
- Section 20 of the Bill empowers the Auditor General to set audit fees under the guidelines as approved by the Minister. FRCS propose that the approved guidelines be included in the Act or Regulation
- Section 25 of the Bill empowers the Minister to make regulations as necessary to give effect to or generally to achieve the purpose of the new legislation. FRCS propose that a Penalty Matrix be included in the Regulation for transparency and fairness.

Confidentiality

From FRCS perspective, confidentiality is fundamental in maintaining the integrity of Fiji's tax system, as breaches can lead to a loss of trust and willingness to comply with tax obligations. It establishes trust between FRCS and taxpayers as all their sensitive financial information are protected from unauthorised disclosure. In this regard, all employees including the Board of Directors are required to take oath of secrecy due to the confidential information we receive and process. Section 52(7) of the FRCS Act stipulates that the Auditor-General and every person authorised by the Auditor-General in writing for the purpose of the audit of the Service's accounts must take an oath. Section 16 of the Bill is contradictory to the requirements of Section 52 (7) of FRCS Act, and this may lead to conflict. FRCS propose that the section 52(7) be embedded in clause 16 of the proposed Bill and Auditor General or any of its representative take oath of secrecy when accessing FRCS information.

FRCS is grateful for this opportunity to comment on the proposed Audit Bill. We anticipate that the above proposed changes will be considered to align Fiji to international auditing standards and practice.

Yours faithfully,



Mr Udit Singh

CHIEF EXECUTIVE OFFICER



Pacific Association of Supreme Audit Institutions (PASAI)

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25th July 2023

Sairusi Dukuno
Acting Auditor General
Office of the Auditor General
Suva
FIJI

Dear Sairusi,

Re: Call for submission - Audit Act 1969 – comprehensive review July 2023

In response to the call for submissions for the review of the Audit Act 1969, the PASAI Secretariat respectfully presents its submission for your kind consideration.

The PASAI has worked collaboratively with your SAI to enhance your SAI capacity-building initiatives. This collaboration is continuing and one of the key areas we are keen to support and advocate for your office is to attain full audit independence.

In this respect, I humbly submit the PASAI submission for presentation to the review committee. Please find attached the following documents in support of our submission:

- Annex 1- PASAI submission on audit independence gaps July 2023
- Annex 2-Copy of the PASAI legal opinion on audit independence submitted in April 2018
- Annex 3-SAI PMF: Indicator SAI 1 assessment and commentary on the dimensions and unmet criteria.

I would be pleased to discuss the PASAI submission and to provide clarification where required at your convenience.

Thank you and I look forward to your favourable response.

Yours faithfully,

Esther Lameko Poutoa
CHIEF EXECUTIVE



Annex 1

PASAI submission- Audit Act 1969 – comprehensive review July 2023

Introduction

1. The Pacific Association of Supreme Audit Institutions (PASAI) is the official association of supreme audit institutions (SAI- refers to 'Offices of Auditor Generals or Public Auditors') in the Pacific region. PASAI promotes transparent, accountable, effective, and efficient use of public sector resources in the Pacific. It works across the Pacific and helps its developing member SAIs to improve the quality of public sector auditing in the Pacific to recognised international standards.
2. PASAI has a total of 29 SAI members, of which 20 SAI members are developing Pacific Island nations spread across three sub-regions, two developing country members are supported by France, and seven are audit offices from New Zealand and Australia, at federal and state level. PASAI is one of the seven regional organisations belonging to the International Organization of Supreme Audit Institutions (INTOSAI). PASAI through its programmes and activities supports the capacity building of SAIs including SAI Fiji. Part of that work is advocating for audit independence.
3. Audit independence is important to the public finance management (PFM) system of any country which is led and managed by the executive government in line with laws, regulations, policies, systems and processes. The focus of any government and PFM is to ensure that public funds are used efficiently, effectively and in a transparent manner. The role of the SAI is to audit and report to Parliament on how the government has managed these public funds to ensure accountability and transparency providing assurance to Parliament and citizens. Hence audit independence from the executive government is crucial for the SAI. SAIs work together with Parliaments to provide external scrutiny, holding the government to account and establishing accountability and integrity in the PFM system and wider public sector. When a SAI is restricted by Constitution or by law or by policy, to do its check and scrutiny, the effectiveness of the external audit function is compromised. It is important that Parliament perceives the SAI as a relevant partner in the oversight of the executive government.
4. The Performance Measurement Framework (PMF) assessment for SAI Fiji has been completed including the assessment of its audit independence (SAI 1- Independence of the SAI). The assessment has identified some gaps in the independence of the Office of Auditor General. These gaps can be addressed with amendments to the 'Audit Act 1969' and related legislations, regulations and the Constitution. This submission is to highlight these gaps and propose changes to address them. It is our hope that these changes are considered in the legislation review and the proposed amendments to the Audit Act. This is to ensure that the Office of the Auditor General has the appropriate level of audit independence to deliver its mandate, which is to audit and report to Parliament annually on the use of public resources, and to provide assurance to Parliament and the citizens on the proper accountability and transparency of public funds.; and in line with the international best practices.
5. It is important to note that Supreme Audit Institutions (SAIs) can accomplish their tasks objectively and effectively only if they are independent of the audited entity and are protected against outside

influence, as stipulated in the Lima Declaration of Guidelines on Auditing Precepts and the Mexico Declaration on Supreme Audit Institutions Independence. SAIs have an important role to play in promoting the efficiency, accountability, effectiveness and transparency of public administration, which is conducive to the achievement of national development objectives and priorities, as well as the internationally agreed development goals, including the Sustainable Development Goals. We recall and refer to these international guidelines and best practices for SAI independence:

- The Lima Declaration of Guidelines on Auditing Precepts (INTOSAI-P 1).
- The Mexico Declaration on Supreme Audit Institutions Independence (INTOSAI-P 10).
- The United Nations resolution A/66/209 of 22 December 2011, promoting the efficiency, accountability, effectiveness, and transparency of public administration by strengthening supreme audit institutions.

6. We would like to discuss in the next section the INTOSAI principles on audit independence and link them to the Fiji Audit Act 1969 and Constitution.

Explanation – the problem and gap analysis

7. **INTOSAI-P1: Principle 2** – Independence of the SAI head. Principle 2 provides that the independence of Supreme Audit Institutions is inseparably linked to the independence of its members. Members are defined as those persons who must make the decisions for the Supreme Audit Institution and are answerable for these decisions to third parties, that is, the members of a decision-making collegiate body or the head of a monocratically organised Supreme Audit Institution. The independence of the members must be guaranteed by the Constitution. In particular, the procedures for removal from office also must be embodied in the Constitution and may not impair the independence of the members. The method of appointment and removal of members depends on the constitutional structure of each country. Overall, the audit staff of Supreme Audit Institutions must not be influenced by the audited organisations and must not be dependent on such organisations. Principle 2 envisages that the appointment and tenure of the Auditor General should be secured through a process independent of the executive government. It is good practice that Parliament should lead the process or make recommendations to the head of state.
8. Principle 2 also provides that the SAI head should be immune from any prosecution for any act that results from the normal discharge of their duties and cannot be sued for issuing audit opinions. The legislation should state that the Head of the SAI shall not be subject to the direction or control of any other authority when carrying out their functions as prescribed by law.
9. **Principle 2 – Gap in SAI Fiji legal framework.** The Constitution of the Republic of Fiji and the Audit Act 1969 do not meet the principle 2 standard because the appointment of the SAI head is recommended by the Constitutional Offices Commission after consultation with the Minister of Finance without the involvement of Parliament (section 151(2) of the Constitution). The commission members appointed under Chapter 7, Part C of the Constitution comprise 6 people, 4 of whom are appointed by the executive government and can form a quorum for any meeting of the Commission. As such, the Commission responsible for the appointment of the Auditor General is subject to control by the Executive government. Moreover, the Minister of Finance whose endorsement must be obtained as part of the process is representative of the executive government. In this respect, the control of the executive government in the appointment of the Auditor General in Fiji is twofold, through the Commission and the Minister of Finance hence it does not meet Principle 2.

10. There are examples of countries in the region that have taken these steps forward to establish independence in the appointment of the SAI head (Auditor General/Public Auditor). Tonga amended its Constitution in 2021 to establish independence in the appointment of the Auditor General: *'(1) There shall be an Auditor General appointed by the Speaker with the consent of the Legislative Assembly. (2) The Auditor General shall, unless otherwise provided by law, have complete discretion to exercise his legal powers and duties independently without interference whatsoever from any person or authority'*(Section 31c Constitution of Tonga (Amendment) Act 2021).
11. In Palau, the appointment of the Public Auditor is provided under the Republic of Palau Constitution Article 12, Section 2 - (a) *A Public Auditor shall be appointed for a term of six (6) years by the President subject to confirmation by the Olbiil Era Kelulau¹. The Public Auditor may be removed by a vote of not less than two-thirds (2/3) of the members of each house of the Olbiil Era Kelulau. In such event, the Chief Justice of the Supreme Court shall appoint an acting Public Auditor to serve until a new Public Auditor is appointed and confirmed. The Public Auditor shall be free from any control or influence by any person or organization.*
12. In New Zealand the SAI head is appointed as an officer of Parliament called the Controller and Auditor-General. *The Controller and Auditor-General is appointed by the Governor-General on the recommendation of the House of Representatives (Section 7 of the Public Audit Act 2001 NZ²). The Auditor-General must act independently in the exercise and performance of the Auditor-General's functions, duties, and powers (Section 9 of the Public Audit Act 2001).*
13. The Constitution of the Republic of Fiji and the Audit Act 1969 do not provide immunity for the Auditor General and his officials where the SAI head cannot be subject to both criminal and civil liability for acts or results from the normal discharge of his/her duties. The immunity provisions set out in section 157 of the Constitution provide a broad immunity from prosecution clause for (h) any public office but do not explicitly provide immunity from prosecution for the SAI in the normal discharge of its duties.
14. There is also the issue of the position of the Auditor General being vacant for more than three months. It is normally best practice for the position to be filled within three months since the position was vacated. Currently, the position of the Auditor General has been vacant since January 2022 and nineteen months have passed with no appointment. Prior to the appointment of the Auditor General in 2017 (2017-2022), the position was vacant for two years hence the last SAI PMF assessment in 2020 recorded this as 'not met'.
15. Principle 8 – Financial independence and operational autonomy. Principle 8 provides that the Supreme Audit Institutions shall be provided with the financial means to enable them to accomplish their tasks. If required, Supreme Audit Institutions shall be entitled to apply directly for the necessary financial means to the public body deciding on the national budget. Supreme

¹ Palau National Congress

² <https://www.legislation.govt.nz/act/public/2001/0010/latest/whole.html#DLM88584>

Audit Institutions shall be entitled to use the funds allotted to them under a separate budget heading as they see fit.

16. Principle 8 – Gap in Principle 8. The remaining gaps in the financial independence of the Office of the Auditor General identified in the last SAI PMF assessment include accessing the resources and the right to request an additional budget. There are still issues with the Ministry of Finance controlling the SAIs access to the budget. There is no provision in the legislation giving the SAI the right to appeal to the Legislature if the financial resources are insufficient for the SAI to fulfil its mandate.

Changes for consideration

The following changes are recommended for consideration when amending the legislation as part of the process:

17. For principle 2, it is highly recommended that the appointment and tenure of the Auditor General should be secured through a process independent of the executive government. It is best international practice for this process to be led by Parliament which is the case in other jurisdictions. It is also best practice that there are no periods longer than 3 months during which there has been no adequately appointed Head with tenure. It is recommended to consider an immunity provision for the SAI head and staff.
18. For Principle 8, it is recommended for the SAI to have the right to appeal to the Legislation for additional budget to enable the SAI to deliver its mandate.

This is a voluntary and non-binding submission, whose content is the sole responsibility of its signatories and without legal status.



Esther Lameko Poutoa
Chief Executive



Pacific Association of Supreme Audit Institutions

5 April 2018

Memo for: Ajay Nand, Auditor-General, Fiji
Copy to: Saisuri Dukono, SAI Fiji
Tiofilusi Tiueti, Chief Executive of PASAI
From: Robert Buchanan, Legal Consultant to PASAI
Subject: **Review of Constitutional and Legal Framework for SAI Fiji**

Introduction and Summary

1. You have requested support from PASAI to review the legislation applying to the Auditor-General and the Office of the Auditor-General ("Office"), to ensure it is aligned with the Constitution of the Republic of Fiji ("Constitution") and other legislation, and best practice internationally.
2. You also wish the review to focus on¹:
 - (i) the lack of immunity from prosecution of the Auditor-General for carrying out the functions prescribed by the Constitution;
 - (ii) the SAI's mandate to carry out environmental, compliance, and IT audits;
 - (iii) the SAI's mandate to audit annual performance statements of ministries, departments, and state-owned entities; and
 - (iv) the scope and meaning of section 7 of the Audit Act (the powers of the Auditor-General), including the SAI's power to access data held by auditees in electronic form;
 - (v) the meaning of section 152(11) and (12) of the Constitution (power to review audits of off-budget state entities that are not audited by the SAI).
3. PASAI asked me to carry out a preliminary review of these questions, recognising that a full review may require more time and resources than are currently available. Having undertaken that preliminary review, my recommendation to you and PASAI is that a full review of the SAI's enabling legislation, and its status as a public sector entity for the purposes of its financing and operational autonomy, would be desirable and has the potential to lay a foundation for a law reform which both:

¹ I have placed these in a different order from your request, and have combined your questions about section 7 and access to electronic records, since they form part of the same topic.

- clarifies the status of the Office as a public sector entity, including for purposes of its budgeting and funding; and
- modernises its statutory mandate and powers.

4. My observations underlying that recommendation are that:

- Although the constitutional provisions about the Auditor-General and the Office are relatively strong when compared to similar provisions in the Pacific region, the Audit Act 1969 (as amended) lacks clarity in a number of respects, including the scope of the Auditor-General's mandate, powers of access to information, and reporting powers. There is clearly potential to modernise the legislation, to bring it into line with international best practice and other recent reforms to SAI legislation around the region.
- The financial independence and operational autonomy of a SAI are fundamental to its overall independence, consistent with international standards.² Besides guaranteeing the Auditor-General's independence from direction or control in the performance of his or her duties, the Constitution requires Parliament to ensure that adequate funding and resources are made available to the Auditor-General for that purpose. But you have advised that, in practice, the Office remains subject to the oversight of the Ministry for Economy in relation to its budgets and appropriations. Despite recent reforms to the Financial Management Act 2004, the Office's exact status under that Act is unclear. A review of that Act, *specifically* with reference to the status and independence of the Auditor-General and the Office, would help clarify the position and ensure a shared understanding of the funding independence that the Constitution envisages.

5. A question would then arise as to how the review could be undertaken, and what support PASAI might be able to provide. There are two aspects to this:

- (a) A full problem definition and gap analysis exercise is needed, to identify the provisions that need reform and to develop best practice legislative changes.
- (b) You must then garner support for the reform, since you would be solely reliant on the Government to agree to prepare and introduce a bill to the Parliament to achieve it. The support of the Parliament itself (including its select committees) may also be needed, in particular to achieve the assurance of adequate funding required by the Constitution.

6. In relation to the first aspect, I note the Office has already undertaken a self-assessment of its independence and constitutional and legal framework, using the SAI PMF measurement tool. I would recommend a more detailed assessment, assisted by external consultant support. This could then be the basis for identifying best practice legislative changes.

7. In relation to the second aspect, PASAI's independence resource kit³ includes a tool for developing an "independence strategy". One element of a strategy is to help a SAI to enhance its independence through legal reforms but also using practical measures and stakeholder relationships. This can enable the SAI to identify the key stakeholders in a law reform, and inform them about why it is important for the SAI to be fully independent, and what that independence should look like under the law and in a practical sense. As you are aware, the INTOSAI Development Initiative's (IDI's) independence programme has also produced a practical guide to SAI independence⁴ which draws on PASAI's resource kit. The IDI is currently providing targeted support to the SAI of Papua New Guinea under the programme, which includes a strategy to support modernisation of its mandate and independence. The results of that work are likely to be shared with PASAI, and could usefully inform the development of a similar strategy in Fiji.

² See also PASAI's 2015 Accountability and Transparency Report (www.pasai.org/accountability-transparency-report/), section 2.

³ See www.pasai.org/introduction.

⁴ See www.idi.no/en/idi-cpd/sai-independence-programme/news/item/27-towards-greater-independence-a-guidance-for-supreme-audit-institutions.

8. The rest of this memorandum contains my analysis of the existing constitutional and legal framework with reference to the eight principles of the Mexico Declaration on the Independence of SAIs (ISSAI 10)⁵. The analysis also discusses the specific questions you asked to be addressed.

The existing constitutional and legal framework

9. The Mexico Declaration sets out eight principles relevant to the independence of a SAI. They can be grouped broadly as follows:

- Constitutional and legal framework:

Principle 1: the existence of a framework and de facto application provisions.

Principle 2: the independence of SAI Heads.

- Mandate and powers:

Principle 3: a sufficiently broad mandate and full discretion in the discharge of functions.

Principle 4: unrestricted access to information.

- Reporting and follow-up:

Principle 5: the right and obligation to report.

Principle 6: freedom to decide the content and timing of reports, and to publish and disseminate them.

Principle 7: effective follow-up mechanisms on SAI recommendations.

- Financial independence and operational autonomy:

Principle 8: availability of resources, not controlled by the Executive, with the legislature ensuring the SAI has the proper resources to fulfil its mandate, and the SAI having a right of appeal to the Legislature if inadequate.

Constitutional and legal framework

10. Section 151 of the Constitution makes specific provision for the “office of the Auditor-General”, and provides that a written law may make further provisions in relation to that “office”. I understand the term “office of the Auditor-General” is taken to mean the SAI itself, i.e., the Office, distinct from the constitutional “office” of Auditor-General as the individual. This view seems reinforced by section 152(7) and section 152(9) and (10), which refer to “staff in” and “the budget and finances of” the “office of the Auditor-General”.
11. This is not consistent with section 151(3), which uses the term “the office of the Auditor-General” with reference to the Auditor-General him/herself. However, that single reference seems unlikely to override the specific provisions relating to the “office” as an entity. On that understanding, both the SAI itself and the office of Auditor-General, as its head, can be taken to have been established by the Constitution. This is important when considering Principle 8, below.
12. The Audit Act is the specific law that gives effect to section 152(3). I will comment further on the Act below.
13. In relation to the Auditor-General personally, section 151(2) of the Constitution provides that the Auditor-General is appointed by the President on the advice of the Constitutional Offices Commission (“Commission”), following consultation with the Minister responsible for finance. The term of office, remuneration and terms and conditions of appointment, and the grounds and process for removing an Auditor-General from office, are all governed by chapter 7, Part D of the Constitution and are in common with other constitutional officers. These matters are also under the overall control of the Commission,

⁵ See www.intosai.org/issai-executive-summaries/view/article/issai-10-the-mexico-declaration-on-sai-independence.html.

subject to there an independent advisory committee on remuneration (which cannot be reduced during an individual's term of office); restricted grounds for removal from office; and the need for an independent tribunal or medical panel to investigate a case for removal using a specified process.

14. Principle 2 of the Mexico Declaration envisages the appointment and security of tenure provisions to use a process that “ensures” the SAI head's “independence from the Executive”. The supporting guidance suggests as a good practice that the Legislature should make the appointment, or recommend the appointment to the head of state. That is the standard generally applied internationally (and in the Pacific region).
15. The security of tenure provisions in the Constitution do not meet this standard, because:
 - The appointment is recommended to the President by the Commission, after consultation with the Minister responsible for finance (who is a member of the Executive), without any parliamentary involvement.
 - The Commission is open to control by the Executive. Established under Chapter 7, Part C of the Constitution, it has six members, two of whom are members of the Executive (being the Prime Minister, who is the chairperson, and the Attorney-General) and another two appointed on the advice of the Prime Minister. (The remaining two members are the Leader of the Opposition and one person appointed on his or her advice.) The quorum for the Commission is three – which could in practice be the Executive members and one of the Prime Minister's appointees.
16. The Constitution also does not appear to envisage a situation where the Attorney-General is also the Minister responsible for finance.
17. While the 5 year term of office for the Auditor-General would be considered sufficiently long, and the removal provisions are robust, the Executive's control of the Commission and the Commission's *de facto* control of the appointment, reappointment and removal processes, make it doubtful that the Constitution fully meets the aspirations of Principle 2.
18. Principle 2 also envisages that the SAI head will be “immune to any prosecution for any act, past or present, that results from the normal discharge of their duties as the case may be”. In the international context, “prosecution” can be said to refer to both criminal and civil liability. It is good practice internationally to provide that a SAI head cannot be subject to either criminal or civil liability for acts performed in good faith in the performance of his or her duties. But practice varies internationally about this.⁶ While such provisions would normally be expected to be found in the Constitution, the fact that the Auditor-General is a constitutional officer should not preclude an immunity being established at a legislative level provided it was not inconsistent with any other constitutional provision.
19. The nature and scope of an immunity could therefore be considered as part of a modernised Audit Act, as part of a more in-depth review of the legal framework.

Mandate and powers

20. Principle 3 envisages that the SAI will have a “sufficiently broad mandate and full discretion”. The supporting text envisages the mandate to include the full range of public sector audit types that are now addressed by the framework of International Standards for Supreme Audit Institutions (ISSAIs). The three fundamental types are financial, compliance, and performance audits – although the ISSAIs recognise that the types may be combined and that compliance auditing is not necessarily a distinct feature of every jurisdiction.
21. In most “Westminster” countries, including in the Pacific, the primary types of public sector audit are the financial audit (required annually in respect of the public accounts and the financial statements of all public

⁶ For example, the Public Audit Act 2001 (NZ) provides that the SAI Head and deputy SAI Head are immune from civil liability in their personal capacities for acts done in good faith, but is silent on the question of criminal liability and does not protect the SAI itself from either civil or criminal liability.

⁷ See ISSAI 400: Fundamental Principles of Compliance Auditing, paras 4-9.

entities) and performance audit (described in terms of effectiveness and efficiency, and sometimes economy). Either legislation or auditing standards could include matters of compliance in either type of audit, or both.

Compliance audits

22. It is not clear whether the Auditor-General currently has mandate in respect of compliance audits. The Office's mandate under the Constitution is limited to inspection, auditing, and reporting to Parliament on the public accounts and matters concerned with public money. The Auditor-General's report is required to address matters of authorisation (section 152(1)), which implies a compliance audit mandate. Section 6 of the Audit Act, which applies to a wider range of public sector and other entities, also contains references to authorisation in the context of financial audits and special investigations. There is also scope for the Auditor-General to have regard to auditing standards (section 6(3)), which could include for example the ISSAI on consideration of laws and regulations in the context of a financial audit (ISSAI 1250) or a broader range of compliance audit standards.
23. As there are different avenues for undertaking compliance auditing activity, I would suggest this be a subject for deeper consideration in any more in-depth review.

Audit of non-financial performance information

24. Another question relates to whether the Office has mandate to audit non-financial performance information as part of a financial audit. Again, this is not clear from the existing constitutional and statutory mandate. In a legal sense, the question may turn on whether non-financial information could be seen as part of a reporting entity's "accounts" or "financial statements" that the Auditor-General is required to audit annually. However, the preferable approach would be to address the audit requirement specifically, either in section 6 of the Audit Act or in the statute which requires non-financial information to be reported.
25. The best approach to that question could usefully be determined during a more in-depth review, in consultation as needed with the Executive.

IT and environmental auditing

26. You have also asked about IT and environmental auditing. The Audit Act does not currently provide for either. Again, these could be subject-matters for either a financial audit or a performance audit, with the audit activity driven by the particular characteristics of those audits and the applicable standards. For example, IT auditing activity could form part of the audit of internal controls under a financial audit. In many jurisdictions, both IT and environmental audits are also currently performed using the standard performance audit mandate of effectiveness and efficiency. That is also envisaged by the ISSAI framework.
27. That said, there is clearly merit in specifying these types of audits in the legislated mandate. I would suggest this be done by two means, namely:
 - clarifying the provisions concerning the auditing standards to be applied in a financial audit, which should be under the control of the Auditor-General as a matter of independence; and
 - making specific provision for these types of audit activity in the statutory performance audit mandate.

28. This aspect could also be given deeper consideration in a more in-depth review.

Other observations

29. I have a number of other comments on sections 6 and 6A of the Audit Act, which I would suggest also be considered in more depth:
 - The Office's mandate in relation to "off-budget State entities" does not appear to extend to special investigations under section 6(1)(d).

- The Minister’s power to make regulations exempting an off-budget State entity from the Auditor-General’s mandate is not good practice⁸, and has the potential to be used to undermine the Auditor-General’s independence in relation to Principle 3.
- The extension of the mandate to subsidiaries of companies (section 6(9)) is good practice, but a question arises about non-company entities.
- I was confused about the use of the term “entity” in section 6A (performance audits). The term is defined narrowly in subsection (6), meaning a budget sector agency or any other body prescribed by regulations. That seems to limit the scope of subsection (1)(a). However, subsection (1)(b) uses the term “State entity”, and subsection (2) speaks of combined audits but using the term “entity” apparently in its narrowly defined sense. The use of this terminology could usefully be improved.

Exemptions from audit mandate, and the review power

30. It is helpful to address section 152(11) and (12) of the Constitution at this point. These provisions say that, if a written law provides that “a specified body corporate” is not subject to audit by the Auditor-General, the law must empower the Auditor-General to review the results of that audit.
31. Historically it was not uncommon for jurisdictional laws to provide that the SAI should not be the auditor of certain types of state-owned entities, especially entities such as the central bank or state-owned enterprises.⁹ The rationale for such approaches was that the SAI did not have the capability to carry out such audits. That argument has weakened as SAIs have become more independent from the Executive, public sector auditing as a discipline internationally has become professionalised and standards-based, and SAIs have been empowered to contract out specialised audits rather than relying solely on the abilities of employed staff.
32. So section 152(11) of the Constitution should not be seen as unique. Indeed, section 152(12) should be seen as a safeguard to ensure that such entities remain to some extent within the SAI’s purview.
33. You are right to note that the nature of the “review” power is not defined in the Constitution (nor, indeed, in section 17 of the Audit Act). You have said there is currently no legislation requiring such review (apart from section 17). It would certainly be possible to define what is meant by a “review”, but my concern would be that that could constrain the Auditor-General in carrying out the function. My inclination would be to focus on getting section 6(1)(b)(i) of the Audit Act repealed, and making section 17 applicable to any specified exemption in other legislation, should it ever occur in accordance with the Constitution. Section 6(1)(b)(i) is not consistent with section 152(12) of the Constitution, because it does not specify the entities that are excluded from the mandate but instead confers a power of general exemption.

Powers of access to information

34. In relation to Principle 4 and the Office’s powers, sections 7 and 8 of the Audit Act appear to establish a strong statutory framework for obtaining information for audit. The powers are broadly consistent with Principle 4. The provisions overriding statutory secrecy provisions in other legislation (section 8) are especially strong.
35. However, you have raised the question of access to electronic documents, or information held in electronic form. This is a widespread problem with legislation that was drafted in the pre-electronic age. It is helpful, in this case, that the Audit Act does not expressly define terms such as “book”, “document” or “record”, in a manner that might prevent a “living” interpretation consistent with the purpose of section 7. However, this is something that could usefully be addressed in a future reform, especially if you are encountering resistance.

⁸ Section 6(1)(b)(i). This is what is known as a “Henry VIII clause” – Parliament giving power to the Executive to diminish or disapply a legislative provision. This provision appears contrary to what is envisaged by section 152(11) of the Constitution, which refers to a “specified body corporate” being not subject to audit by virtue of a written law. Such clauses are also regarded as unconstitutional in the unwritten constitutional systems of the United Kingdom and New Zealand, and are widely regarded as bad legislative practice elsewhere because they undermine the sovereignty of the Legislature – especially if (as here) the power is unconstrained and not subject to any form of oversight.

⁹ For example, in New Zealand before 2001 the Auditor-General was not the auditor of the central bank, and the legislation governing state-owned enterprises both excluded the performance audit mandate for SOEs and provided for alternative audits by private sector audits.

In the meantime, there might be merit in seeking a legal opinion on the scope of the section 7 powers, either from the Attorney-General or from a specialist in statutory interpretation.

Reporting and follow-up

36. The Auditor-General's reporting duties and powers under the Constitution and the Audit Act are broadly consistent with Principles 5 and 6 of the Mexico Declaration.
37. However, reports must be made to Parliament in every instance. The only exception is in the case of serious irregularities discovered in an audit or special investigation – which “shall” be reported to the Minister responsible for finance, the responsible authority for the entity concerned, and the Minister responsible (Audit Act, section 10). There is no power to report an irregularity directly to the appropriate investigative authority (such as the Independent Commission Against Corruption).
38. Also, the Auditor-General has no express power to publish or disseminate reports.
39. A modernised legal framework would empower the Auditor-General to report matters arising from an audit or investigation, including instances of suspected fraud or corruption, to any appropriate authority; and to publish any report (and issue communications about a public report) at the time it is made, including on its website.
40. Principle 7 deals with follow-up mechanisms. The Audit Act has no provisions about follow-up, although this is not unusual in the region. In “Westminster” systems, the primary follow-up mechanism is through the Public Accounts Committee of the legislature and addressed either through the standing orders or other rules of the legislature itself or in legislation relating to the Public Accounts Committee.
41. The adequacy of existing follow-up mechanisms could also be addressed in a more in-depth review.

Financial independence and operational autonomy

42. Principle 8 deals with two aspects of a SAI's independence: the need for the SAI's budget to be developed without the risk of interference by the Executive; and the need for the SAI head to have control over the resources appropriated for the use of the SAI.
43. The Constitution contains strong provisions about both aspects. Parliament is to “ensure that adequate funding and resources are made available to the Auditor-General, to enable him or her to independently and effectively exercise his or her powers and perform his or her functions and duties” (section 152(9)). The Auditor-General is also to have “control of the budget and finances of the office of the Auditor-General, as approved by Parliament” (section 152(10)), and “the authority to appoint, remove, and discipline all staff (including administrative staff) in the office of the Auditor-General” and determine all matters pertaining to the employment of all staff (section 152(6), (7)).
44. In respect of the funding mechanism, the exact meaning of section 152(9) and (10) is unclear. On one reading, it could be understood just to mean that Parliament must appropriate funds for the Office (i.e. through an annual Appropriation Act) that are “adequate”. But the reference to the effective exercise of powers and performance of the Auditor-General's functions and duties, and the use of the word “approved” in subsection (10), suggests that the intention is to have something more. The expectation at the time the Constitution was adopted was that there would be a separate system for the Office's budget to be considered and “approved” by a parliamentary committee before being included in the Government's annual budget and Appropriation Bill – much as has happened in New Zealand and Australia for many years and has now been adopted in Tuvalu under its recent law reform.
45. You have advised that the Office must still make its budget submission through the Ministry of Economy, in the same way as other public sector entities, and that it is common for the Budget team at the Ministry to review the submission and make recommendations to the Minister which could lead to the budget being reduced. That is, of course, not consistent with international standards of SAI independence. It also appears inconsistent with section 152(9) and (10) of the Constitution, in that there is no separate mechanism for Parliament to “ensure” the adequacy of the Office's funding and resources, or to “approve” its budget and finances.

46. There is also considerable ambiguity about the Office's ability to manage its budget and finances in practice. This stems from a lack of clarity about what type of entity the Office is under the Financial Management Act 2004:
- As amended in 2016, the Act establishes the category of "constitutional body", which means "any body created or continued under the Constitution". The Office appears to meet that definition, which brings it within the term "State entity" for the purposes of the Act. But that would also make the Office fully subject to the Finance Instructions and the oversight of the Ministry. And the Auditor-General, as the head of a State entity, would be responsible for administering the appropriation given to the entity only if it is a "budget sector agency" – which to meet the definition of that term requires an Appropriation Act to specify an appropriation for that entity. Currently, that is not the case.
 - But the 2017 amendment to the Act also established the category of "independent body", as a subset of "off-budget State entities" (section 37A). The term "independent body" means "an entity that is required by a written law to independently exercise its powers and perform its functions and duties". The Office also appears to meet that definition by virtue of the independence guarantee in section 152(5) of the Constitution (although note that the guarantee is given to the Auditor-General, not the Office). Section 37A gives the head of an independent authority full autonomy over the administration of the body. This is subject to complying with the Finance Instructions, but there is potential for an exception to this requirement in relation to procurement if the body has its own rules, regulations or guidelines which "promote good governance and the appropriate use of funds" and are publicly available (section 37A(5)).
47. You have advised that the Office's appropriation is included in a group of appropriations in the Appropriation Act 2017 described as being for "independent bodies"; and that the Auditor-General is recognised as having full autonomy in how the budget is applied (subject to having to obtain approval of the Executive in matters relating to ICT procurements and having to comply with other administrative requirements concerning the tabling of annual reports). This would appear consistent with the Office now being an off-budget, independent State entity, rather than a constitutional State entity.
48. On the other hand, section 37A also makes each independent office subject to audit by your Office (section 37A(4)(b)). That is not consistent with section 14 of the Audit Act and, on its own, suggests that the Office is not intended to be included in this category of entity.
49. The advantage for the Office in being treated as an independent body is that it activates the Ministry's duty in section 37A(1), to "ensure that an adequate amount of money is appropriated to any independent office to ensure that the independent office may independently and effectively exercise its powers and perform its functions and duties". Several observations can be made about this provision, as it applies to the Office:
- The wording of the subsection uses language apparently drawn from section 152(9) of the Constitution, which applies in relation to the Office.
 - However, the duty is placed on the Ministry, not Parliament.
 - The provision also appears misconceived, in that it is not possible for "the Ministry" to "ensure" the amount appropriated to an office – that is a matter for Parliament.
 - In that sense, the provision is not consistent with section 152(9), and indeed could be interpreted as unconstitutional in relation to the Office because it does not allow Parliament to ensure adequacy, nor to approve the Office's budget and finances as contemplated by section 152(10).
50. Where does this leave the Office? The impression from reading the Financial Management Act and its amendments is that there has been an endeavour to reform the Act to bring it into line with the Constitution, but this has been piecemeal (establishing two, overlapping, entity types without being clear which entities, including the Office, belong to which category). And, at least with respect to the Office, the 2017 reform appears to have been done in haste or without care, because section 37A(1) is not consistent with the Constitution and moreover the provision requiring audit by the Auditor-General suggests that the Office's status has been overlooked.

51. Financial independence and operational autonomy are essential elements in SAI independence. But they are hard to achieve, requiring difficult balancing between the need for effective parliamentary oversight and approval of a SAI's budget and preserving the Government's overall responsibility for public financial management and fiscal responsibility.
52. With that in mind, I suggest that the Office seek to initiate a review of its status under the Financial Management Act, with the Office (and its constitutional provisions) as the specific focus. I would hope that PASAI could make resources available to support that work. But the work would also need buy-in by the Government and the Ministry, with awareness raising based on international standards and good practices. The Office should consider developing a strategy for achieving that, using the resources available from PASAI and the IDI.



Dimensions & Criteria for Independence	Fiji Rating Year 2020	Comments for Consideration
SAI1 (i) Appropriate and Effective Constitutional Framework	4¹	Met all of the Criteria
a) "The establishment of Supreme Audit Institutions (...) shall be laid down in the Constitution; details [including the role, powers and duties of the SAI] may be set out in legislation." ISSAI 1:5. See also ISSAI 1:18	Met	
b) The SAI's "(...) independence shall be laid down in the Constitution (...)." ISSAI 1:5	Met	
c) "The independence of Supreme Audit Institutions provided under the Constitution and law also guarantees a very high degree of initiative and autonomy (...)." ISSAI 1:8	Met	
d) The appointment, term, cessation of functions of the Head of the SAI (and members, in the case of collegiate bodies) and the independence of their decision-making powers are guaranteed in the Constitution. ISSAI 1:6, ISSAI 10:2.	Met	
e) There is "adequate legal protection by a supreme court against any interference with a SAI's independence". ISSAI 1:5.	Met	
f) "SAIs should report on any matters that may affect their ability to perform their work in accordance with their mandates and/or the legislative framework." ISSAI 12:1	Met	
g) "SAIs should strive to promote, secure and maintain an appropriate and effective constitutional, statutory or legal framework." ISSAI 12:1	Met	
SAI 1 (ii) Financial Independence/Autonomy	2	Criteria e, f and g are not met.
a) The legal framework explicitly or implicitly provides for the SAI's financial independence from the executive. ISSAI 1:7	Met	Section 152 (10) of the Constitution provides for the SAI's financial independence and autonomy from the executive.
b) The SAI's budget is approved by "the public body deciding on the national budget". ISSAI 1:7	Met	The provision in the legislation is there allowing the SAI to submit its budget directly to Parliament.
c) The SAI is free to propose its budget to the public body deciding on the national budget without interference from the executive. ISSAI 10:8.	Met	

¹ Score of 4 – The Managed Level (all criteria met)
 Score of 3 – The Established Level (1 or 2 criteria not met)
 Score of 2 – The Development Level (3 key criteria not met)
 Score of 1 – The Founding Level (4 or more key criteria not met)

Dimensions & Criteria for Independence	Fiji Rating Year 2020	Comments for Consideration
d) The SAI “shall be entitled to use the funds allotted to them under a separate budget heading as they see fit”. ISSAI 1:7	Met	
e) After the SAI’s budget has been approved by the Legislature, the Executive (e.g. the Ministry of Finance) should not control the SAI’s access to these resources. ISSAI 10:8	Not Met	<p>This should be achieved with established processes or specific provisions in the legislation such as in the case of NZ.</p> <p>Under the NZ Public Audit Act 2001, Part 6 provides for Accountability for the Auditor General. A snapshot is as follows:</p> <p>36 Annual plan of Auditor-General (1) At least 60 days before the beginning of each financial year, the Auditor-General must prepare and submit to the Speaker of the House of Representatives a draft annual plan that— (a) describes the Auditor-General’s proposed work programme for that year; and (b) <i>repealed as follows:</i> (5) If the annual plan is completed in time, the Auditor-General may include it with the final information about the Auditor-General’s future operating intentions that the Auditor-General must provide to the Speaker under section 45G(1)(c) of the Public Finance Act 1989.”</p> <p>The annual plan and budget are submitted directly to Parliament and considered by the House of Representatives. The AG can consider amending the plan given any comments from the Speaker and the House. The spending of their approved budget is separate from the executive government.</p> <p>The Public Audit Act with amendments can be found here: https://www.legislation.govt.nz/</p>
f) The SAI has “the right of direct appeal to the Legislature if the resources provided are insufficient to allow [it] to fulfil [its] mandate.” ISSAI 10:8	Not Met	This requires a specific provision in the legislation where a SAI has the right to appeal to the legislature if the resources (budget approved) are insufficient to fulfil its mandate. Other SAIs can normally submit supplementary budgets.
g) During the past 3 years there have been no cases of undue interference from the Executive regarding	Not Met	There was evidence in the last assessment of undue interference from the executive with the SAI’s budget.

Dimensions & Criteria for Independence	Fiji Rating Year 2020	Comments for Consideration
the SAI's budget proposal or access to financial resources. ISSAI 10:8		This can be met easily if there is no interference from the executive of the SAIs budget at any given time.
SAI 1 (iii) Organisational Independence/Autonomy	4	Met all of the Criteria
a) The legal framework ensures that the SAI has "(...) the functional and organizational independence required to accomplish [its] tasks." ISSAI 1:5	Met	
b) In practice, the SAI is "free from direction or interference from the Legislature or the Executive in the (...) organization and management of [its] office." ISSAI 10:3	Met	
c) The SAI has the power to determine its own rules and procedures for managing business and for fulfilling its mandate, consistent with relevant rules affecting other public bodies. ISSAI 10:8, ISSAI 20:6.	Met	
d) The Head of SAI is free to independently decide on all human resource matters, including appointments of staff and establishment of their terms and conditions, constrained only by staffing and/or budgetary frameworks approved by the Legislature. ISSAI 10:8	Met	
e) The relationship between the SAI and the Legislature and also the Executive is clearly defined in the legal framework. ISSAI 1:8,9	Met	
f) The legal framework "(...) provides for accountability and transparency [by covering] the oversight of the SAI's activities (...)." ISSAI 20:1	Met	
g) The SAI is entitled to call on and pay for external expertise as necessary. ISSAI 1:14	Met	
SAI 1(iv) Independence of the Head of the SAI and its members	1	Criteria a, c, d and g are not met.
a) "The applicable legislation specifies the conditions for appointments, reappointments, [and] removal (...) of the Head of the SAI, and [where relevant] members of collegial institutions (...) by a process that ensures their independence (...)." ISSAI 10:2 (E.g. with the approval of the Legislature, and where relevant, the Head of State; removal only for just cause / impeachment, similar protections to those that apply to a High Court Judge).	Not Met	section 152 (2) states: <i>'The Auditor-General is appointed by the President on the advice of the Constitutional Offices Commission, following consultation with the Minister responsible for finance'</i> . The involvement of the Commission and Minister of Finance in the process of the appointment of the SAI head impairs the independence of the Auditor General. Perhaps a consideration for the process for the appointment of the Auditor General to be led by Parliament.
b) "(...) the head of SAI, and [where relevant] members of collegial institutions [are] given appointments [and re-appointments] with sufficiently long and fixed terms, to allow them to carry out their mandates without fear of retaliation." ISSAI 10:2	Met	
c) "The Head of SAI and [where relevant] members of collegial institutions are (...) immune to	Not Met	The immunity provisions set out in section 157 of the Constitution provides a broad

Dimensions & Criteria for Independence	Fiji Rating Year 2020	Comments for Consideration
any prosecution for any act (...) that results from the normal discharge of their duties." ISSAI 10:2 (i.e. the SAI / Head of SAI cannot be sued for expressing audit opinions. This criterion is considered met if the legislation states that the Head of the SAI shall not be subject to the direction or control of any other authority when carrying out their functions as prescribed by law.)		immunity from prosecution clause for (h) <i>any public office</i> but does not explicitly provide immunity from prosecution for the SAI in the normal discharge of its duties. Legal advice confirms that the issue of immunity is being considered through amendments to the current Audit Act. A provision to reflect this is required in the legislation.
d) Within the past 3 years, there have been no periods longer than 3 months during which there has been no properly appointed Head with tenure. SAI PMF Task Team.	Not Met	Prior to the appointment of the current AG in 2017, the position was vacant for two years hence the assessment recorded this as not met. The position of AG has been vacant since January 2022. To date 26/07/2023, no appointment has been made. It can easily be met if the position of AG is not vacant for more than three months at any time. A provision to reflect this is required in the legislation.
e) The last appointment [or re-appointment] of the Head of the SAI was done through a transparent process that ensured his/her independence. ISSAI 10:2, SAI PMF Task Team.	Met	
f) During the last 3 years there have been no cases where the Head of the SAI (or where relevant) members of collegial institutions were removed through an unlawful act or in a way that compromised the SAI's independence. ISSAI 10:2, SAI PMF Task Team.	Met	
g) The legal framework ensures that "in their professional careers, audit staff of Supreme Audit Institutions must not be influenced by the audited organizations and must not be dependent on such organizations." ISSAI 1:6	Not Met	There is no specific provision in the legislation hence it is not met. Perhaps a consideration of a provision in the legislation. For example, In NZ, Section 3 of the Public Audit Act provides: 3 Purpose of this Act The purpose of this Act is to— (a) establish the Controller and Auditor-General as <u>an officer of Parliament;</u> This establishes the independence of the AG from all audited organisations in the public section. In other jurisdictions, for example Palau, the provision is in the Constitution, Article 12, Section 2 of the Constitution of Palau: <i>"The Public Auditor shall be free from any control or influence by any person or organization"</i> .
Domain A: Independence and Legal Framework	Dimension	Overall Score

Indicators	Name	(i)	(ii)	(iii)	(iv)	
SAI-1	Independence of the SAI	4	2	4	1	3
SAI-2	Mandate of the SAI	4	3	4		4

28th October 2024

Re: Comments on the Audit Bill 2024
Response: The University of the South Pacific

First, we would like to congratulate the Fiji Government for updating the Audit Act of 1969. This is well overdue and very timely. We make the following comments and suggestions:

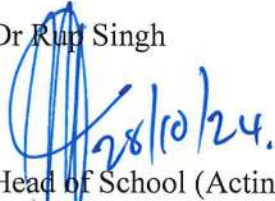
1. The Audit Bill 2024 contains several revisions and additions which are very important, especially those matters that relate to digital information and records.
2. Auditor independence is crucial in any audit and investigation activity for creditability and stakeholder acceptance. The (new) Audit Bill 2024 should have included matters that impact auditor independence. Such matters could include: appointment of the auditor-general, duration of appointment, declaration of interests, conflicts of interest, restriction on outside employment, leave of absence, resignation, grounds for removal or suspension from office, removal or suspension of auditor-general on address, suspension of auditor-general when Legislative Assembly not sitting, restriction on employment after office ends and delegation of powers.
3. The second matter important for auditor independence is setting of audit fees (Clause 20 of the Audit Bill 2024). It must be noted that to retain the rigidity of independence, audit fees should be set, reviewed and approved by a select parliamentary committee, which could provide an independent outcome for all stakeholders.
4. Similarly, the resources allocated to the Audit Office (through the Appropriation Bill) should be reviewed by an independent parliamentary select committee.
5. Auditing Standards:
 - (1) We also feel that greater reference should be made to the Auditing Standards. Specifically, the auditor-general must prepare a report to the Legislative Assembly setting out the general standards auditor-general applies (or proposes to), to the conduct of audits; and the selection, engagement, and quality control of the work of contracted auditor(s); and a decision whether an audit of a public sector entity is small in size and of low risk; and stating the extent to which the standards are in accordance with auditing standards made by relevant professional or statutory bodies.
 - (2) If the auditor-general later makes a significant change to, or replaces, the general standards, he/she must, as soon as practicable prepare a report to

the Legislative Assembly stating:

- (a) the purpose and nature of change or replacement; and
 - (b) the extent to which the changed or replaced standards are in accordance with auditing standards made by relevant professional or statutory bodies.
6. Under Clause 10, paragraph 4, the section where the auditor general appoints a suitably qualified person to conduct a financial audit..., needs the define what is implied by a "suitably qualified person". A generally accepted definition within the audit profession is a person having an active and full membership of a recognized professional accounting body.

Sincerely,

Dr Rup Singh



Head of School (Acting)
School of Accounting, Finance and Economics (SAFE)
The University of the South Pacific.



Information Brief – Standing Committee

For Standing Committee on Public Accounts

Audit Bill 2024 (Bill No.17 of 2024)

The *Audit Bill 2024* (“Bill”) seeks to repeal the *Audit Act 1969* (“Act”) and provides a revised legal framework for the duties and powers of the Auditor-General. According to the Explanatory Note, a review of the Act was undertaken in 2023 by the Ministry of Finance and Strategic Planning, National Development and Statistics, with the Office of the Auditor-General and involved wide consultations with stakeholders.

1.0 Summary of Parts and Clauses

This is a summary of the parts and clauses of the Bill. The clauses are provided at the end of each bullet point for reference. We have attempted to summarise several clauses into one bullet point for ease of reading and reference. This Brief is intended only to assist the Standing Committee on Public Accounts in its reading of the Bill. The aim of the Brief is to provide a quick summary of the Bill. The Committee is advised to seek the necessary expertise and information from the drafters of the Bill for specific legal drafting issues.

Part 1 - PRELIMINARY

- **Short Title and Commencement** (Clause 1): The Bill when it becomes an Act of Parliament will be cited as the *Audit Act 2024* and will come into force on a date appointed by the Minister by notice in the official Gazette.
- **Interpretation** (Clause 2): This clause defines key terms used in the act (listed alphabetically).

Part 2 – THE AUDITOR-GENERAL

Auditor-General (Clause 3)

- The Auditor-General must not hold any other office of profit under the State. [3(1)]
- Civil service laws apply to the Auditor-General unless they conflict with the Constitution or other laws. [3(2)]

Acting Auditor-General (Clause 4)

- An appointed Acting Auditor-General has the same powers and duties as the Auditor-General during their acting period. [4]

Office of the Auditor-General (Clause 5)

- The Office is an independent entity. [5(1)]
- Revenues must be deposited in a designated bank account. [5(2)]
- Revenues include appropriations, audit fees, grants, and other lawful income. [5(3)(a-d)]
- The Auditor-General controls the funds and can employ staff and contractors. [5(4)]

Powers of Auditor-General (Clause 6)

- Can call for explanations and information from public entity officers. [6(1)(a)]
- Authorise department officers to conduct inquiries or audits. [6(1)(b)]
- Access and extract information from public entity records. [6(1)(c)]
- Examine individuals under oath regarding financial matters. [6(1)(d)]
- Seek legal opinions from the Attorney-General or private practice. [6(1)(e)]
- Access all records and premises of public entities. [6(2)(a)]



- Use electronic means to access and interpret information. [6(4)(a-c)]

Code of Ethics (Clause 7)

- Auditing standards must include a code of ethics for public sector auditors. [7(1)]
- All staff and contractors must comply with the code of ethics, with breaches treated as disciplinary matters. [7(2)]

Delegation (Clause 8)

- The Auditor-General can delegate functions, duties, or powers, except for certifying and reporting accounts to Parliament. [8(1)]
- Delegations must be in writing and can be subject to conditions and revocable, and does not prevent the Auditor-General from exercising a duty, function or power. [8(2)(a-d)]

Protection from Liability (Clause 9)

- The Auditor-General, staff, and contractors are protected from personal liability for acts or omissions in their duties unless done in bad faith. [9(1-2)]
- This does not limit disciplinary actions by professional bodies. [9(3)]

Mandate of Auditor-General (Clause 10)

- The Auditor-General audits every public entity and can conduct financial audits, special investigations, performance audits, compliance audits, and review other audits. [10(1)]
- The mandate overrides any contrary provisions in other laws or company documents. [10(2)]
- The Auditor-General can appoint qualified persons to conduct audits or investigations. [10(4)]

Duties of Auditor-General (Clause 11)

- Audit the accounts of the Consolidated Fund and Government financial statements annually. [11(1)(a)(i-ii)]
- Audit public entities' accounts and financial statements annually. [11(1)(b)(i-ii)]
- Ensure accounts are fairly presented, expenditures are authorized, and laws are complied with, appropriated money has been applied for the purpose it was appropriate, comply with provisions of the *Constitution and Financial Management Act 2004*. [11(2)(a-e)]
- Provide audit opinions and management reports. [11(3)(a-b)]
- Review results of audits conducted by other auditors. [11(5)]

Special Investigations (Clause 12):

- The Auditor-General can conduct special investigations on request by the Prime Minister, Minister, or Parliament, or at their discretion. [12(1)]
- Investigations can be stand-alone or in conjunction with other audits and can cover multiple public entities. [12(2)]

Part 3 – AUDITS**Performance Audits (Clause 13)**

- The Auditor-General can conduct performance audits of public entities at any time. [13(1-2)]
- These audits assess the effectiveness, economy, and efficiency of activities, and can include environmental and IT system audits. [13(3)]
- The Auditor-General determines the frequency and number of performance audits annually. [13(4)]
- The merit of government policy objectives cannot be questioned during these audits [13(5)]; “policy objectives” include Government policy direction of a Minister, policy statement in a budget paper, objectives in a corporate plan approved by a Minister or any document that provides a policy decision of the Government or a Minister. [13(6)]

Compliance Audits (Clause 14)

- The Auditor-General can audit a public entity's compliance with its obligations at any time. [14(1)]
- Compliance audits can be stand-alone or combined with financial or performance audits. [14(2)]
- Obligations include duties under laws, binding rules or instructions, contracts, and internal policies or plans. [14(3)]

Auditing Standards (Clause 15)

- Auditor-General must conduct any audit or special investigations or review audits by other auditors [15(1)]
- Audits and special investigations must follow international auditing standards or other relevant standards as notified by the Auditor-General. [15(1)(a)]
- The Auditor-General has discretion in conducting audits and must do so competently, considering the effectiveness of the entity's internal control systems.

Secrecy (Clause 16)

- The Auditor-General's operations (Clause 10) are not limited by other laws' secrecy provisions unless explicitly stated. [16(1)]
- A person is not guilty of an offence for actions taken under Clause 10, even if those actions would otherwise be considered a breach of secrecy under other laws. [16(2)]
- Information obtained during audits must not be disclosed except in the course of duty or in reports to Parliament or law enforcement. [16(3)]

Notification of Serious Irregularities (Clause 17)

- The Auditor-General must notify relevant authorities if serious irregularities in public money or property management are found. [17(1)]
- Such matters must be brought to the attention of: the Minister, if the public entity is a State entity; Minister responsible for local government, if the public entity is a local authority; the responsible authority or governing person of the public entity; or Minister responsible for the public entity. [17(1)(a-d)]
- Law enforcement or the Public Service Commission may be notified if potential criminal or disciplinary matters are identified. [2(a) and 2(b)]

Audit of Other Entities (Clause 18)

- The Auditor-General can audit non-public entities if requested by the entity or the Minister, especially if the entity receives government grants or guarantees. [18(1)]
- These audits follow the same discretion and powers as public entity audits, and reports must be sent to the Minister for tabling in Parliament. [18(2)(a-c)]

Audit of the Office of the Auditor-General (Clause 19)

- The Speaker of Parliament appoints an auditor for the Office of the Auditor-General for up to 3 years, with reappointment possible after a 3-year gap. [19(1-2)]
- The appointed auditor (cannot be someone who was the Auditor-General or staff of the OAG in the last 12 months) has similar powers and duties as the Auditor-General but must report results to the Auditor-General for inclusion in a report to Parliament. [19(3-4)]

Audit Fees (Clause 20)

- The Auditor-General can set fees for audits and special investigations, following guidelines approved by the Minister. [20(1)]
- Entities must pay the set fees upon receiving an invoice. Different fees may apply to different types of audits or investigations. [20(2-3)]

Part 4 - REPORTS

**Reports (Clause 21)**

- The Auditor-General's report to Parliament may include significant matters from audits, special investigations, or reviews conducted in the preceding year. [21(1)]
- The Auditor-General must report the results of every performance audit and may report the results of special investigations or any other relevant matters to Parliament. [21(2)(a-c)]
- The annual report of the Office of the Auditor-General must include an account of its activities and resource stewardship. [21(4)]

Publication of Reports (Clause 22)

- Reports on financial audits must be submitted to the Speaker of Parliament within 9 months after the end of the financial year or receipt of financial statements. [22(1)]
- Reports on special investigations and performance audits must be submitted within 6 months after the year of completion. [22(2 – 3)]
- The Auditor-General may publish these reports by any appropriate means, including on the official website. [22(4)]

Procedural Fairness in Relation to Reports (Clause 23)

- Before finalizing a report that could materially affect any person's interests or reputation, the Auditor-General must give that person a reasonable opportunity to comment. [23(1)]
- If comments are provided, the Auditor-General must consider them and include the substance of the comments in the final report if not fully accepted. [23(2)]

Part 5 - MISCELLANEOUS**Extraterritorial Operation (Clause 24)**

- The Act extends to financial transactions, balances, and acts or omissions outside of Fiji.

Regulations (Clause 25)

- The Minister may make regulations necessary to give effect to the Act, including prescribing offences and penalties, with fines up to \$50,000 or up to 15 years imprisonment for individuals, and fines up to \$200,000 for corporate bodies. [25]

Repeal (Clause 26)

- The *Audit Act 1969* is repealed. The Bill repeals the current legislation.

Consequential Amendments (Clause 27)

- All written laws and State documents are amended to replace references to the "Audit Act 1969" with "Audit Act 2024," unless the context requires otherwise.

2.0 Some Points on the Bill in relation to existing Act

2.1 The last amendment of the *Audit Act 1969*¹ was in 2006. Since then amendments have been consequential, that is, following the amendments of other relevant legislation or enactment of new laws. See table² of amendments below.

Amending Legislation	Commencement Date
Audit (Amendment) Ordinance 1970 (No 32 of 1970)	8 October 1970
Constitution (Statutory Amendments) Order 1970 (LN 112 of 1970)	8 October 1970
Constitution (Statutory Amendments) (No 2) Order 1970 (LN 118 of 1970)	13 November 1970
Audit Ordinance (Amendment) Act 1971 (No 36 of 1971)	12 August 1971
Audit (Amendment) Act 1998 (No 7 of 1998)	27 July 1998
Audit Act (Amendment) Decree 2000 (No 37 of 2000)	24 November 2000
* * Audit (Amendment) Act 2006 (No 7 of 2006)	15 May 2006
Public Service (Amendment) Act 2016 (No 2 of 2016)	16 February 2016
Financial Management (Amendment) Act 2016 (No 10 of 2016)	29 April 2016
Revised Edition of the Laws (Consequential Amendments) Act 2016 (No 31 of 2016)	1 December 2016
Public Enterprises Act 2019 (No 6 of 2019)	19 July 2019
Fiji Institute of Chartered Accountants Act 2021 (No 44 of 2021)	24 June 2022

2.2 Repealing the Audit Act 1969 and replacing it with the new legislation has several impacts:

- **Modernisation:** The Bill is geared towards alignment with international standards and best practices, ensuring that the auditing framework is up-to-date and effective. These standards include International Standards on Auditing (ISAs) and the International Standards for Supreme Audit Institutions.³
- **Enhanced Powers and Duties:** The Auditor-General's powers, duties, and mandate are clearly defined and expanded, including the ability to conduct various types of audits and special investigations. The Bill expands the mandate of the Office of the Auditor-General to include compliance, IT and environmental auditing, while the Act focused on financial audits of public accounts.
- **Regulatory Updates:** The Bill provides for the creation of regulations to support its implementation, including setting penalties for non-compliance. The Act does specify the establishment of regulations prescribing offences and penalties.
- **Legal Consistency:** All references to the old Act in existing laws and documents are updated to the new Act, ensuring legal consistency and clarity.
- **Improved Accountability:** The Bill includes provisions for reporting serious irregularities, protecting the Auditor-General and staff from liability, and ensuring procedural fairness in reports, thereby enhancing accountability and transparency in public financial management.
- **Independence of the Auditor-General:** The Act does not explicitly emphasise the independence of the Auditor-General and, or the OAG. The Bill however does explicitly say that the OAG is “an independent office” [Clause 5(1)].

¹ A scanned copy of the Act can be found on: <https://bit.ly/4hb63h9> [Hard copy is available in the Parliament Library]

² Available on Laws of Fiji <https://www.laws.gov.fj/Acts/DisplayAct/967> [Accessed 14/10/24]

³ Statement by Hon. Minister for Finance, Professor Biman Prasad on the Audit Bill 2024 <https://bit.ly/48bajsB>



- **Access to Data:** The Act does not specifically address access to electronic data. The Bill empowers the Auditor-General to access data, including electronic data.

For further background information on the Bill see Hon. DPM Prof. Biman Prasad's Parliamentary Statement on the Bill: <https://bit.ly/48bajsB>

16 October 2024

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Information Brief – Standing Committee

For Standing Committee on Public Accounts

Audit Legislation: Powers to make regulations and related issues in other jurisdictions

This information brief looks into the audit and related laws of Commonwealth jurisdictions specifically on the provisions regarding the powers to make subsidiary legislation or regulations under these laws.

AUSTRALIA

FEDERAL

*Auditor-General Act 1997*¹

- The Governor-General has the power to make regulations under the *Auditor-General Act 1997*. This is as specified in Section 57.

57 Regulations

The Governor-General may make regulations prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

- The Act has provisions on **offences** and **penalties**. These include:
 - *Failure to Comply with Directions*: Under S32(3), a person must comply with a direction from the Auditor-General to provide information, attend and give evidence, or produce documents. The penalty for non-compliance is 30 penalty units.
 - *Access to Premises*: Under S33(3), if an authorised official enters premises, the occupier must provide reasonable facilities for the effective exercise of powers. The penalty for non-compliance is 10 penalty units.
 - *Confidentiality of Information*: Under S36(1), a person must not disclose information obtained in the course of performing an Auditor-General function except as allowed. The penalty for unauthorized disclosure is imprisonment for 2 years.
 - *Sensitive Information*: Under S37, the Auditor-General must not include certain sensitive information in public reports if it would be contrary to the public interest for specified reasons.

STATE

VICTORIA – *Audit Act 1994*²

- Under the Victorian Audit Act 1994, Section 85, the power to establish subsidiary laws or regulations is typically vested in the Governor in Council. This means that regulations are made by the Governor of Victoria, acting on the advice of the Executive Council.
- In Victoria, the term Governor in Council refers to the Governor of Victoria acting on the advice of the Executive Council. The Executive Council consists of the Premier and other Ministers who have been sworn into office.

¹ <https://www.legislation.gov.au/C2004A05248/latest/text> [Accessed 27/11/24]

² <https://content.legislation.vic.gov.au/sites/default/files/2021-06/94-2aa067%20authorised.pdf> [Accessed 27/11/24]



Part 12—General

84 Regulations

- (1) The Governor in Council may make regulations for or with respect to any matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act.
 - (2) The regulations may—
 - (a) be of general or limited application;
 - (b) differ according to differences in time, place or circumstance;
 - (c) confer a discretionary authority or impose a duty on a specified person or body or specified classes of person or body;
 - (d) apply, adopt or incorporate any matter contained in any document or any method, whether—
 - (i) wholly or partially or as amended by the regulations; or
 - (ii) as formulated or published on or before the date when the regulations are made; or
 - (iii) as formulated or published from time to time;
 - (e) provide for the exemption of a person, body or thing or classes of person, body or thing from any of the regulations, whether—
 - (i) unconditionally or on specified conditions; and
 - (ii) either wholly or to any specified extent.
- The Act includes provisions for **offences** and **penalties**. Some key sections addressing these are:
 - *Compliance to a directive*: a person must comply with a direction from the Auditor-General to provide information, attend and give evidence, or produce documents. The penalty for non-compliance is 30 penalty units. S32(3)
 - *Unauthorised entry into official premises*: If an authorised official enters premises, the occupier must provide reasonable facilities for the effective exercise of powers. The penalty for non-compliance is 10 penalty units. S33(3)
 - *Unauthorised disclosures*: a person must not disclose information obtained in the course of performing an Auditor-General function, except as permitted. The penalty for unauthorised disclosure is imprisonment for 2 years. S36(1)
 - *Unauthorised use of disclosures*: a person who receives information disclosed under section 23A and uses or discloses it without the Auditor-General's consent commits an offence. The penalty is imprisonment for 2 years. S36(2B)
 - *Unauthorised disclosure of proposed report or extract*: a person who receives a proposed report or extract and discloses any information in it without the Auditor-General's consent commits an offence. The penalty is imprisonment for 2 years. S36(3).

NEW SOUTH WALES – *Government Sector Audit Act 1983*³

- Under the *Government Sector Audit Act 1983*, the power to make regulations or subsidiary legislation is vested in the Governor of New South Wales. This authority is exercised on the advice of the Executive Council, ensuring that the necessary detailed provisions are in place for the effective implementation

64 Regulations

³ <https://legislation.nsw.gov.au/view/whole/html/inforce/current/act-1983-152#:~:text=An%20Act%20to%20make%20provision,Committee%3B%20and%20for%20other%20purposes>. [Accessed 27/11/24]



(1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

- The Executive Council of New South Wales is the formal, official arm of the government that provides legal authority for various actions, such as proclamations, regulations, and appointments to public office (generally equivalent of the Cabinet in Fiji). It is composed of the Governor of New South Wales and the Cabinet Ministers. The Governor acts as the President of the Executive Council and chairs its meetings. The Council acts on the advice of the Cabinet, giving formal expression to many of the government's decisions. This structure ensures that the executive actions are legally authorized and properly documented.
- The Act 1983 includes provisions for offences and penalties under:
 - S36(5) a person must comply with a requirement made of the person under subsection (3) or (4), with a maximum penalty of 20 penalty units for non-compliance.
 - S37(2) a provider of a banking service must comply with a requirement made of the provider under subsection (1), with a maximum penalty of 20 penalty units for non-compliance.
 - S58(2B) and (2C) impose penalties for disclosing confidential information related to the proposed appointment of a person as Auditor-General, with a maximum penalty of 20 penalty units or imprisonment for 3 months, or both.
 - Section 58(4) and (5) impose penalties for disclosing or publishing evidence taken in private by the Committee without proper authorisation, with a maximum penalty of 20 penalty units or imprisonment for a term not exceeding 3 months.

QUEENSLAND – *Auditor-General Act 2009*⁴

- Under the *Queensland Auditor-General Act 2009*, the Governor in Council has the power to make regulations. This is provided for in Section 73 of the Act. Note that such powers to make regulations is also covered by the *Queensland Public Sector Act 2022* whereby the Government makes such regulations on advice of the Minister. Furthermore, before providing advice or recommending regulation to the Governor, the Minister must consult with the Auditor-General about a proposed regulation. This is provided for under Section 8C(2) of the *Auditor-General Act 2009*.

73 Regulation-making power

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may create offences and prescribe penalties for the offences of not more than 5 penalty units.

- **Offences and penalties** are provided for in the Act. Some examples include:
 - *confidentiality of criminal history information*: a person must not disclose criminal history information unless permitted (S29A). Maximum penalty: 100 penalty units¹;
 - *false or misleading information*: A person must not provide false or misleading information to an authorised auditor (S50). Maximum penalty: 80 penalty units.
 - *obstruction of authorised auditor*: A person must not obstruct an authorised auditor in the exercise of their powers (Section 51). Maximum penalty: 80 penalty units.
 - *impersonation of authorised auditor*: A person must not pretend to be an authorised auditor (Section 52). Maximum penalty: 80 penalty units.

⁴ [Auditor-General Act 2009 - Queensland Legislation - Queensland Government](#) [Accessed 27/11/24]



- *confidentiality and related matters*: A person must not make a record of or divulge protected information unless permitted (Section 53). Maximum penalty: 200 penalty units or imprisonment for 1 year.
 - *proposed reports to remain confidential*: A person must not disclose information contained in a proposed audit report unless permitted (Section 65). Maximum penalty: 200 penalty units or 1 year's imprisonment.
- Additionally, the Act allows for the creation of regulations that may prescribe offences and penalties of not more than 5 penalty units (S73).

NEW ZEALAND

Public Audit Act 2001⁵

- The Governor-General has the **powers to make regulations** under the *Public Audit Act 2001*, specifically to amend Schedule 2 by adding, omitting, or correcting the name of an entity, on the recommendation of the Minister of Finance.
- It is not provided for or specified under the Act, other regulation making powers of the Governor-General.
- Offences and Penalties are provided for Under Section 39. Offences are:
 - intentionally obstructing, hindering, or resisting the Auditor-General or any other person in the exercise of their powers under the Act.
 - Intentionally refusing or failing to comply with any lawful requirement of the Auditor-General or any other person under the Act.
 - Making a statement or giving information to the Auditor-General or any other person exercising powers under the Act, knowing that the statement or information is false or misleading.
 - Representing directly or indirectly that the person holds any authority under the Act when they knowingly do not hold that authority.
- Penalties:
 - An individual who commits an offence is liable to a fine not exceeding \$2,000.
 - A person or organization other than an individual is liable to a fine not exceeding \$5,000.

SOLOMON ISLANDS

Public Finance and Audit Act [Cap 120]⁶

- The Minister has the **power to make regulations** under Section 51(1). The only limitations to the Minister's power to make regulations as specified in S51(2) are: that regulations must not extend to abridge or alter the terms of any trust and; regulations must not contravene or be inconsistent with the terms of any trust in relation to moneys held on trust.
- **Offences and penalties** are specified in the Act. Specifically, Section 44 states that any public officer who contravenes or fails to comply with the provisions of Section 43 is guilty of misconduct in office. Additionally, Section 45 references misconduct in office as specified in Chapter VIII of the *Constitution* or

⁵ [Public Audit Act 2001 No 10 \(as at 27 October 2024\), Public Act Contents – New Zealand Legislation](#) [Accessed 27/11/24]

⁶ <https://www.cbsi.com.sb/wp-content/uploads/2016/06/public-finance-audit-act.pdf> [Accessed 28/11/24]



the *Public Service Commission Regulations 1979* or any other rules or regulations applying to public officers.

UNITED KINGDOM

Budget Responsibility and National Audit Act 2011⁷

- Section 28 of the *Budget Responsibility and National Audit Act 2011* grants the Treasury the power to make consequential provisions. Specifically, it allows the Treasury to:
 - Make any provision it considers appropriate in consequence of any provision of the Act.
 - Amend or revoke any provision of subordinate legislation made on or before the last day of the Session in which the Act is passed.
 - Include supplementary, incidental, transitional, transitory, or saving provisions.
 - Any order made under this section is to be made by statutory instrument and is subject to annulment in pursuance of a resolution of either House of Parliament.
 - Additionally, the Treasury has the power to make regulations under the Act regarding remuneration arrangements for the Comptroller and Auditor General (Section 13(6)).
 - The Act does not explicitly mention penalties and offences provisions within the text provided. The Act primarily focuses on the establishment and functions of the Office for Budget Responsibility, the National Audit Office, and the roles and responsibilities of the Comptroller and Auditor General, among other administrative and procedural matters.
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Powers of the Head of State to Make Regulations

- The **President of Fiji does not have the power to make regulations** under the Constitution. The President's role is largely ceremonial and involves acting on the advice of the Cabinet, a Minister, or another prescribed body or authority. The power to make regulations or issue instruments having the force of law is expressly authorised by the Constitution or a written law and is typically vested in other bodies (such as Parliament) or officials, not the President (S50).
- In Australia, **state Governors have the power to make regulations**, on the advice of the Executive Councils of each state. The Governor acts on the advice to the Executive Council when making regulations. At the federal level, the Governor-General has the power to make regulations on the advice of the Federal Executive Council which consists of the Governor-General and Ministers of Government. The Governor-General's role includes making regulations and other forms of delegated legislation as authorized by various Acts of Parliament.

⁷ [Budget Responsibility and National Audit Act 2011](#) [Accessed 28/11/24]



Country/State/Jurisdiction	Principal Legislation	Powers to make regulations	Offences	Penalties
1. Australia Federal	Auditor-General Act 1997	Governor-General	Specified	Specified
2. Victoria	Audit Act 1994	Governor on advice of Executive Council	Not specified	Not specified
3. New South Wales	Government Sector Audit Act 1983	Governor on advice of Executive Council	Specified	Specified
4. Queensland	Auditor-General Act 2009	Governor on advice of Minister	Specified	Specified
5. New Zealand	Public Audit Act 2001	Governor (limited)	Specified	Specified
6. Solomon Islands	Public Finance and Audit Act (Cap 120)	Minister	Specified	Specified in other Legislation
7. United Kingdom	Budget Responsibility & National Audit Act 2011	Treasury	Not Specified	Not Specified

28 November 2024

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**Information Brief – for Standing Committee of PAC****Audit Act comparison with other jurisdictions****Overview**

Below is the list of countries and the acts that will be discussed in this information brief:

Countries	Name of the Act	Reasons
New Zealand	<i>Public Audit Act 2001</i>	New Zealand has a close historical, economic, and political relationship with Fiji. It also offers a model for small, developed countries with high standards for audit independence and accountability, making its audit framework highly relevant.
Australia	<i>Auditor-General Act 1997</i>	Australia's auditing standards and regulatory frameworks often serve as a benchmark for Fiji, given the economic ties and similar public sector challenges, particularly in public interest entity audits and accountability measures.
PNG	<i>Audit Act 1989</i>	Papua New Guinea shares similar economic and governance challenges with Fiji. Both countries face challenges in resource constraints and capacity-building for auditing public finances
Tonga	<i>Public Audit Act 2007</i>	Fiji can compare its audit legislation with Tonga's audit framework, as both countries share similar contexts as small Pacific Island nations with comparable governance, economic challenges, and Commonwealth legal traditions
Vanuatu	<i>Expenditure Review And Audit Act</i>	Fiji can compare its audit legislation with Vanuatu's audit framework, as both countries share similarities as Pacific Island nations with comparable economic contexts, governance structures, and Commonwealth legal traditions



How are penalties and fines captured in Audit legislations

Countries	Penalties/ fines
Fiji	<p>Audit Bill 2024 Clause 25: (1) The Minister may make regulations to prescribe matters that are required or permitted by this Act to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to this Act and generally for achieving the purposes of this Act. (2) Without affecting the generality of subsection (1), the Minister may make regulations prescribing offences and penalties not exceeding— (a) in the case of an individual, a fine of \$50,000 or imprisonment for a term of 15 years or both; or (b) in the case of body corporate, a fine of \$200,000.¹</p>
New Zealand	<p>The Public Audit Act 2001 Section 39, subsection (1) Every person commits an offence who, without lawful justification or excuse,— (a) intentionally obstructs, hinders, or resists the Auditor-General or any other person in the exercise of the Auditor-General’s or other person’s powers under this Act: (b) intentionally refuses or fails to comply with any lawful requirement of the Auditor-General or any other person under this Act: (c) makes a statement or gives information to the Auditor-General or any other person exercising powers under this Act, knowing that the statement or information is false or misleading: (d) represents directly or indirectly that the person holds any authority under this Act when that person knowingly does not hold that authority.</p> <p>Section 39 (2) specifies the fines which are (a) in the case of an individual, to a fine not exceeding \$2,000: (b) in the case of a person or organisation other than an individual, to a fine not exceeding \$5,000.</p>
Australia	<p>AUDITOR-GENERAL ACT 1997 Clause 32: Power of Auditor-General to obtain information (1) The Auditor-General may, by written notice, direct a person to do all or any of the following: (a) to provide the Auditor-General with any information that the Auditor-General requires; (b) to attend and give evidence before the Auditor-General or an authorised official; (c) to produce to the Auditor-General any documents in the custody or under the control of the person. Note: A proceeding under paragraph (1)(b) is a “judicial proceeding” for the purposes of Part III of the Crimes Act 1914. The <i>Crimes Act</i> prohibits certain conduct in relation to judicial proceedings. (2) The Auditor-General may direct that: (a) the information or answers to questions be given either orally or in writing (as the Auditor-General requires); (b) the information or answers to questions be verified or given on oath or affirmation. The oath or affirmation is an oath or affirmation that the information or evidence the person will give will be true and may be administered by the Auditor-General or by an authorised official. (3) A person must comply with a direction under this section.</p>

¹ Audit Bill 2024 of Fiji, on page 16.



	<p>Penalty: 30 penalty units.</p> <p>The value of a penalty unit is prescribed by the <i>Crimes Act 1914</i> and is currently \$313 for offences committed on or after 1 July 2023.²</p> <p>Clause 36: Confidentiality of information (1) If a person has obtained information in the course of performing an Auditor-General function, the person must not disclose the information except in the course of performing an Auditor-General function or for the purpose of any Act that gives functions to the Auditor-General. Penalty: Imprisonment for 2 years.</p>
PNG	<p>Audit Act 1989 Clause 29: OFFENCES (1) A person who hinders or obstructs the Auditor-General, or a person authorized by the Auditor-General, in the exercise and performance of his powers, functions and duties is guilty of an offence. Penalty: In the case of an offence by a natural person, a fine not exceeding K10,000.00 or imprisonment for a term not exceeding two years; in the case of a person other than a natural person, a fine not exceeding K20,000.00.</p> <p>(2)47 A person who, without lawful excuse (proof of which is on him)– (a) refuses or fails to attend, or wilfully neglect to attend at a time and place required by the Auditor-General, or a person authorized by the Auditor-General, for the purposes of being examined; or (b) refuses or wilfully neglects to produce any accounts and records; or (c) refuses to allow the Auditor-General, or a person authorized by the Auditor-General, to make copies or extracts from any documents, registers or records; or (d) refuses to be sworn or make an affirmation; or (e) refuses to answer a lawful question; or (f) makes or subscribes any statutory declaration or affirmation knowing it to be false; or (g) wilfully and corruptly gives false evidence in the course of his examination before the Auditor-General, or a person authorized by the Auditor-General, is guilty of an offence. Penalty: In the case of a natural person, a fine not exceeding K10,000.00 or imprisonment for a term not exceeding two years; in the case of a person other than a natural person, a fine not exceeding K20,000.00.</p>
Tonga	<p>Public Audit Act 2007 Clause 17: Penalty for non-compliance Any person who fails, without reasonable cause, to supply any information or answer any question put to him by the Auditor General or an authorised officer under section 14 is guilty of an offence and upon conviction shall be liable to a fine not exceeding \$500 or to imprisonment to a term not exceeding six months.</p> <p>Clause 29: False statement Any person who makes any statement or declaration or gives any information, certificate or document required by this Act knowing it to be false or misleading commits an offence and upon conviction shall be liable to a fine not exceeding \$10,000 or imprisonment not exceeding three years or both.</p>

²Australian Securities & Investment Commission, (2024). Fines and Penalties. Available at: <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/fines-and-penalties/#:~:text=The%20value%20of%20a%20penalty,or%20after%201%20July%202023.> [Accessed on 31st November 2024]



	<p>Clause 30: Obstruction Any person who resists or obstructs the Auditor General in the discharge of his functions, duties or powers under this Act commits an offence and shall be liable to a fine not exceeding \$10,000 or imprisonment not exceeding three years or both.</p> <p>Clause 31: Offences by a corporate body If a body corporate commits an offence under this Act each director or other person concerned in the management of the body corporate is also guilty of, and liable to the penalty provided for that offence, unless the director or other person proves that he exercised reasonable diligence to prevent the commission of the offence.</p>
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Budget for Office of the Auditor General

Countries	Budget process	Budget approved
Fiji	The OAG prepares its budget based on its operational needs, which include staffing, resources, audit activities, training, and other operational costs. Once the AG finalizes its budget proposal, it submits the budget to the Ministry of Finance. The Ministry of Finance reviews and assessing the requested funds against national financial priorities and the overall budget framework. The OAG's approved budget is included in the national budget document.	Once the budget is approved by Parliament. The Auditor General is accountable to Parliament regarding the utilization of the allocated funds. The Auditor General's office is responsible for managing its finances according to the approved budget and the regulations set out in the <i>Public Finance Management Act</i> .
New Zealand	The OAG prepares its budget based on strategic planning and operational needs, which include staffing, audit resources, training, and other necessary expenditures to fulfil its mandate. The OAG submits its budget proposal to the New Zealand Treasury, which is responsible for managing the government's financial resources. Once the budget is reviewed, the OAG's funding request is included in the broader government budget, which outlines the financial plans for all government entities. The Government budget, including the allocation for the OAG, is presented to Parliament. This presentation typically occurs annually, usually around May.	Following the approval of the budget, the OAG is responsible for utilizing the funds according to the approved plan. It must report back to Parliament on its performance, including financial statements and audit results, through its annual report
Australia	The budget for the Auditor-General under the Australian National Audit Office falls under the Prime Minister and Cabinet portfolio. ³ The ANAO prepares its budget as part of	One critical component of this process is the committee stage, where various parliamentary committees examine specific aspects of the budget in detail.

³ Parliament of Australia website, (2024). The Senate, Finance and Public Administration Legislation Committee, Budget Estimates 2024. Available at:

[25https://parlinfo.aph.gov.au/parlInfo/download/committees/reportsen/RB000405/toc_pdf/BudgetEstimates2024%e2%80%9325.pdf](https://parlinfo.aph.gov.au/parlInfo/download/committees/reportsen/RB000405/toc_pdf/BudgetEstimates2024%e2%80%9325.pdf) [Accessed on: 31st November 2024]



	<p>the broader federal budget process coordinated by the Department of Finance. The proposed budget is submitted to Parliament during the annual budget cycle and must be approved by both Houses before implementation. Additionally, there are provisions for supplementary funding if necessary.</p>	<p>Estimates Committees: In Australia, there are dedicated estimates committees that focus on examining government expenditure proposals. These committees are established to review how funds are allocated to different departments and agencies.</p> <p>Public Hearings: During this stage, committees hold public hearings where they can question ministers and departmental officials about their budget requests. This allows for a thorough examination of proposed expenditures.</p>
PNG	<p>Audit Act 1989.</p> <p>Clause 20B: ESTIMATES The Auditor-General shall prepare annually estimates of the sums that will be required for the payment of salaries, allowances and expenses of his office during the next ensuing financial year for consideration by the Permanent Parliamentary Committee on Public Accounts for recommendation to the Prime Minister for approval in conformity with Section 225 of the Constitution.</p> <p>Clause 20BA: FUNDING OF PROVINCIAL AUDIT SERVICE The National Government shall ensure that adequate funding is made available to enable each Provincial Audit Service to carry out its functions.</p> <p>Clause 21: FINANCE (1) The State shall pay each year to the Auditor-General such sum as is determined by the National Executive Council after consideration of estimates submitted by the Auditor-General as is sufficient to enable the performance of the functions of the Auditor-General. (2)43 44The sums payable under Subsection (1) shall be paid out of the Consolidated Revenue Fund.</p>	
Tonga	<p>Tonga’s Office of the Auditor General follows a more centralized approach within its public financial management system. The OAG submits its budget request to the Ministry of Finance as part of national budgeting processes governed by various</p>	



	financial regulations. The Ministry assesses this request based on overall government priorities before presenting it to Parliament for approval.	
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Role of the Minister

Countries	Minister	Comments
Fiji	The Minister responsible for finance ⁴	The Auditor General operates independently and is not under the control of any government minister. The Office of the Auditor General (OAG) in Fiji is established under the Fiji Constitution and functions autonomously to ensure impartiality in auditing government accounts. The Auditor General reports directly to Parliament, not to any minister or executive body, which supports the office’s ability to provide objective assessments of government financial management and operations. Only the Act is one of the written laws that is assigned under the responsibility of the Minister for Finance. ⁵
New Zealand	The <i>Public Audit Act</i> is administered by the Treasury. ⁶ Minister Responsible for the Controller and Auditor-General at 30 May 2024: Speaker of the House of Representatives. ⁷	
Australia	In Part 2 of the <i>Auditor-General Act 1997</i> states that the Minister is the President of the Senate and the Speaker of the House of Representatives. a) in relation to a Commonwealth entity or a Commonwealth company—has the same meaning as in the <i>Public Governance, Performance and Accountability Act 2013</i> ; and (b) in relation to a Commonwealth partner—means the Minister responsible for achieving	The Auditor-General for Australia is an independent officer of the Parliament with responsibility under the <i>Auditor-General Act 1997</i> for auditing Commonwealth entities and reporting to the Australian Parliament. The Auditor-General is supported by the Australian National Audit Office (ANAO). ⁸

⁴ Audit Bill 2024 of Fiji, on page 4.

⁵ Fiji Parliament, (2024). PARLIAMENTARY DEBATES, DAILY HANSARD, WEDNESDAY, 2ND OCTOBER, 2024 [UNCORRECTED] page 2098. Available at <https://www.parliament.gov.fj/wp-content/uploads/2024/10/Daily-Hansard-Wednesday-2nd-October-2024.pdf> [Accessed on 28th October, 2024]

⁶ As stated in the New Zealand Public Audit 2001.

⁷ Budget2024. Controller and Auditor-General. Available at: <https://budget.govt.nz/budget/2024/by/dept/oag.htm> [Access at: 30th November 2024]

⁸ Australia National Audit Office (ANAO), (2024). Auditor-General. Available at: <https://www.anao.gov.au/about/the-auditor-general> [Access at: 31st November 2024]



	the Commonwealth purpose concerned; and (c) in relation to a subsidiary of a corporate Commonwealth entity or a Commonwealth company—the responsible Minister for the entity or company concerned.	
PNG	The <i>Vanuatu Audit Act 1989</i> is administered by the Office of the Auditor General. The head of this office is the Auditor-General, who is responsible for overseeing the implementation and enforcement of the Act	
Tonga ⁹	As stated in the Tongan National Budget the Minister responsible for Office of the Auditor General is the Lord Speaker of the House.	

31st October 2024

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⁹ *Tonga Public Audit Act*, (2016). Available at: https://ago.gov.to/cms/images/LEGISLATION/PRINCIPAL/2007/2007-0015/PublicAuditAct_2.pdf [Accessed 28th October, 2024]