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Hon. Michelle Roberts MLA
Speaker of the Legislative Assembly
Legislative Assembly
4 Harvest Terrace
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Email: speaker@parliament.wa.gov.au

Dear Speaker

AUDIT PRACTICE STATEMENT ERRATUM

On 15 February 2022 I presented the Audit Practice Statement for tabling in Parliament.

It has come to my attention that an external URL from the Australian Government Solicitor, referred to and hyperlinked in this document, is no longer accessible. I therefore seek to table a replacement page to be updated in the tabled paper and on the Parliament's website.

ERRATUM

On page 27 of the document we seek to remove the sentence "It can be viewed at: www.ag.gov.au/publications/legal-briefing/br64.htm."

END OF ERRATUM

Please find attached a replacement of page 27 of our Audit Practice Statement. I have also sent a copy of this letter and the replacement page to the Clerk of the Legislative Assembly.

Thank you for your assistance.

Yours faithfully

CAROLINE SPENCER
AUDITOR GENERAL
4 May 2022

cc: Clerk of the Legislative Assembly

Methodology

All notices received under section 82 of the FM Act lead to an assessment by the OAG.

Our practice is to:

1. Determine if the notice was required by section 82 of the FM Act. If the notice was not required (not valid), then the Auditor General will inform the minister and Parliament.

2. If the notice was required, we will review the information in the notice, including the minister's explanation for the decision.

If the minister's reason for not providing the information was that it is:

- commercial-in-confidence
- Cabinet-in-confidence
- subject to legal professional privilege
- other valid reason

then we will obtain and assess relevant information from entities and the minister's office to see if it meets our criteria and considerations for these areas, maintaining the confidentiality of the information during the process.

3. Based on this detailed review, an opinion will be provided that the minister's decision was either:
 - reasonable and therefore appropriate
 - not reasonable and therefore not appropriate.

Reporting

We include the Auditor General's opinion and the reasons for reaching the opinion in a report tabled in Parliament. The report is tabled as soon as feasible after the opinion is determined. We advise the member of Parliament, who asked the minister for the information, of the report's tabling date.

Our procedural fairness process includes providing the draft report which incorporates the audit team's recommended opinion to the minister and the relevant agency for comment before the Auditor General considers feedback and finalises the opinion for tabling in Parliament.

Even if we find the minister's decision not reasonable and therefore not appropriate, we generally do not disclose the requested information in our report.

Common reasons for not providing information to Parliament

Our approach supports a culture of openness and accountability for the expenditure of public money, efficient and effective management of government agencies, and the most appropriate and beneficial use of public resources.

Commercially confidential

The FM Act does not provide an interpretation of 'commercially confidential'. In its absence, we draw on a 2002 legal briefing published by the Australian Government Solicitor on identifying and protecting confidential information.

Our assessment draws the distinction between information that is commercially confidential to a third party and information generated by and confidential to Government.

If the information is commercially confidential to a third party, the following criteria apply:

- a) the confidential information is specifically identified
- b) the information was provided under an understanding that it would remain confidential
- c) the information must be sufficiently secret. This means that the information should not generally be known or ascertainable
- d) disclosure would cause unreasonable detriment to the owner of the information or another party.

Criterion a) is critical when assessing information provided to Government by a third party. If it is not met, the other criteria are not assessed.

If the information is commercially confidential to government, the following criteria apply:

- a) the information must be sufficiently secret. This means that the information should not generally be known or ascertainable
- b) disclosure would cause unreasonable detriment to the owner of the information or another party.