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Audit Independence and Changing Roles from a Small Islands Perspective
Paul Allsworth
Auditor General, Cook Islands

INTRODUCTION

I am pleased to be invited to address this important seminar to share with you, my views and experiences in the role as Auditor – General from the Cook Islands, a small Island State from the South Pacific. Firstly, let me briefly provide you with the scenario of our geographical, political, economic and governance position so that you are aware of the environmental and legal framework.

Small island states are low lying costal islands that share similar sustainable development challenges, including small population, lack of resources, remoteless, susceptibility to natural disasters, excessive dependence on international trade and vulnerability to global developments. In addition, they suffer from lack of economies of scale, high transportation and communication costs and costly public administration and infrastructure.

The small island states of the Pacific comprise of the Cook Islands, Kiribati, Marshall Islands, Nauru, Niue, Palau and Tuvalu. The Cook Islands comprises of 15 widely dispersed islands spanning between French Polynesia, Fiji, Samoa and Tonga. Total land area is 240 square kilometers with an exclusive economic zone covering a sea area of nearly 2 million square kilometers.

The Cook Islands has a Westminster Parliamentary System inherited from the colonial era, similar to that of New Zealand. The country is an independent state in free association with New Zealand. The Parliament consists of a single chamber of 24 elected members. The Head of State is Her Majesty the Queen, who is represented by the Queen's Representative. The leading economic sectors are tourism, fishing, agriculture and financial services. Gross Government expenditure for the period 2009/10 is NZ\$215.5 million. Public debt is estimated at NZ\$61 million or 18.3% of GDP as at 30 June 2009.

BACKGROUND

The Audit Office originally commenced as the 'Internal Auditor' of Government. The Crown accounts up to 1993, were audited by the office of the Auditor General of New Zealand. The Office of Audit and Inquiries permanently established the Audit Office as the supreme Audit Institution.

A major internal economic crisis in 1994/1995, largely from a bloated public service and spiraling foreign debt saw the Cook Islands near bankruptcy with over 2,000 public servants losing their jobs.

Key reform legislation introduced in 1995/96 were the:

1. Public Service Act
2. Ministry of Finance and Economic Management Act
3. Office of the Public Expenditure Review Committee and Audit Act

The position of Auditor was '*localized*' in July 1996 and I have held this post since then. During the past decade, there has been a dramatic change in the public sector administration. Basically, with the assistance of our key development partners, namely NZ Aid, AusAid and the Asian Development Bank, who have been instrumental in reassessing the role, operations and activities of Government, together with emerging trends, of globalization and information technology.

This aspect has potentially transformed the way Government does its business. Amongst the political environment, strong accountability frameworks were implanted with the focus on better checks and balances, a values system introduced covering ethics and codes of conduct, all indicating a shift to a more robust, credible and responsive corporate governance regime.

The Audit Office has been fully supportive of the financial management reforms. These have taken shape through various incremental changes in the following areas:

- The move from a centralized Public Service Commission employment agency to individual performance based employment contracts
- A shift from cash based to full accrual accounting
- A more settled budgetary framework
- A considerable degree of devolved authority to agency heads to manage agencies in an efficient, effective and ethical manner
- The adoption of outputs – outcomes budgeting from the traditional line item budgets

ROLES AND RESPONSIBILITIES

The Auditor General is appointed by the Queens Representative on the advice and approval of Cabinet. This provision is legislated under section 21 (1) of the PERCA Act 1995/96.

The Auditor General has a legislative mandate to audit the financial statements of all Crown owned entities. The Audit Office also carries out performance audits, special reviews and investigations from time to time. These include the review of State-Owned Enterprises which are largely Government business operations.

The Audit Office tables on average 120 financial and performance reports to Parliament each year. In addition, an annual report and 4 quarterly reports are also tabled, disclosing all the audit activities covered in a financial period.

The Audit Office makes a key contribution to the system of public accountability, serving as the external auditor of Government with a duty to report directly to Parliament on the;

- Financial stewardship and
- The economy and efficiency of the operations of Crown entities

The budget of the Audit Office for 2009/10 is \$1.01 million with recoverable audit fees of \$180,000. The Audit Office is subject to the same budget bidding process as all other Crown entities.

It is, like other entities, subject to the whim and control of Treasury officials and the Budget Committee. After a rather cumbersome and slow process, it is sanctioned by Cabinet before the Budget Estimates are tabled with Parliament.

AUDIT INDEPENDENCE

The independence of Auditor Generals is not an end in itself. As noted earlier, there are *'independence flaws'* in the areas of the appointment and removal of the Auditor General and also in the area of 'financial budgetary' independence. These inherited provisions from the parent legislation will need to be repealed in due course, given of course the political will of Government.

The Auditor General, in partnership with other law enforcement agencies, has an important role to play in the accountability and transparency environment in terms of providing assurance to Parliament and advising of developments and its impacts across the whole public sector. Therefore, it is critically important and fundamental that the Auditor General has the powers to investigate and report, freely and fearlessly without any reservations.

From discussions with my peers and reviewing relevant literature, there are 4 important preconditions for attaining a legitimate pathway for auditor independence. There as follows;

- The appointment process must be objective, on merit and not influenced by improper considerations or political connections,
- Security of tenure has to be guaranteed for a known and viable period,
- The removal process must be subject to known and proper criteria, not under any improper or unusual considerations,
- Remuneration has to be sufficient to ensure that the functions can be properly fulfilled, sufficient to prevent improper inducements being attractive and sufficient to cover reasonable risk from the task.

At present, there exists in practice, aligned with the current legislation a *'symbolic'* rather than a *'real'* distinction in the audit independence of the Auditor General over time, for some reason this has not been tested and challenged. In New Zealand, the Auditor General is an *'Officer of Parliament'* and is appointed by parliament from both sides of the House, namely the Government of the day and the Opposition.

The relationship is best described as follows:

'The Auditor General is an officer whose purpose is to provide credible assurance to Parliament on governmental performance. Credible assurance can only be provided by ensuring the Audit Office is independent and competent'. (OAG,NZ)

In my view, one cannot effectively deal with the issue of independence unless one considers the legal framework which created the Auditor General's role in the first place, For example, the appointment, the mandate and scope of the Audit Office, together with its power to access information, including sensitive Cabinet documents, all impact on the extent of independence which informally exists in parts and does not hold significant authority.

As recently as this July, and with the concurrence of Sir Terepai Maoate my portfolio Minister responsible for the Audit Office, steps are now underway to review and repeal certain provisions of the PERCA Act, with the aim of strengthening the independence powers of the Auditor General and the Office.

You will agree with me that it is vital that the Auditor General not only be independent but is also **seen** to be independent.

You will also agree with me that in a small tight-knit community with a population in Rarotonga of around 9 to 10,000 people, staff members of the Audit Office need to ensure that their own individual independence is not compromised, including mine, through personal or family conflicts of interest. Our strength in reporting to our Parliament and taxpayers comes from our independence and the integrity that comes with it. For example, in October 2008, a controversial audit report relating to the Ministry of Health was intentionally 'delayed' from being tabled in Parliament by the Minister of Health, who is also Minister responsible for the Audit Office.

THE CHANGING ROLE OF AUDIT

Another encouraging development is the increasing interest in the fight against corruption. This part of the Audit Office's role has dramatically increased over the past decade. Under its Budget Output 3 responsibility – Performance Audits and Special Reviews – the office has taken on over time the function of a '**watchdog**' in terms of preventing, detecting and reporting white collar corruption in the public sector. By default, it has openly taken over this role as the state's anti-corruption agency or anti-fraud office. Although there may not be specific anti-corruption provisions in our legislation, to office is clearly tightening its grip on fraud, waste, misuse and corruption.

Some notable investigations and prosecutions show the effectiveness in this area;

1. **Former Chief of Staff to the Prime Minister** – convicted of fraud and secret commissions. Sentenced to 3 years imprisonment.
2. **Former Attorney General and Member of Parliament** – lost his seat due to receiving other sources of Crown income not permitted under the Civil List Act.

3. **Former Manager of the Cook Islands Tourism Corporation (Auckland Office)** – convicted of fraud and sentenced to 3 years imprisonment.
4. **Former CEO of Tourism** – Case pending before the High Court.
5. **Former Deputy Prime Minister and Speaker of Parliament** – case pending before the High Court.
6. **Former CEO of Liquor Supplies (formerly a SOE)** - convicted of theft and fraud, sentenced to 5 years in jail.

There have been many other administrative and civil cases that have indicated that the Audit governance process through either financial audits, performance audits and special investigations is achieving its objectives. It would be fair to say that, the overarching result in the fight against corruption is linked with the effective relationships between the public prosecutors office, being Crown Law and the Criminal Investigation Branch of Police. From time to time, depending on the complexity of the investigation, technical assistance from the New Zealand Serious Fraud Office has been sought.

CONCLUDING REMARKS

Let me conclude by reinforcing the importance of the Auditor – General and the Audit Office’s role in informing Government and the taxpayers, through Parliament, on the state of public finances and administration.

The tradition role of merely reporting about the *‘checks and balances’* and trying to keep Government *‘honest’* is not sufficient. The aim now is to produce real results – through stronger accountability and better public sector performance. The enactment of the recent Official Information Act 2009, will only reinforce transparency in the provision of an open Government.

Over the past 10-15 years, I can objectively say that through the work of the Audit Office, we are an organization that is respected by Parliament, public sector entities and the general public.

We have achieved this by working hard, through the investment of good people and resources and building a culture that is conducive to a high performing public service.

Thank you.