



Probity and the Public Record

Issues Arising from the Audit Review into Government
Contracts



Probity and the Public Record

Issues Arising from the Audit Review into
Government Contracts

Recommendations:

That the Victorian Government

- recover records currently in the possession of privatised or contracted out entities
- clarify whether all government corporations are covered by the *Public Records Act 1973*, and
- ensure that future contracts include clauses that ensure proper management of public records.



Probity and the Public Record

Issues Arising from the Audit Review into
Government Contracts

Public Record Office Victoria

Roles and Responsibilities

Ross Gibbs
Director and Keeper of Public Records
5 December, 2000



Probity and the Public Record

Issues Arising from the Audit Review into
Government Contracts

Public Record Office Victoria

Roles and Responsibilities

Ross Gibbs
Director and Keeper of Public Records
5 December, 2000



Probity and the Public Record

Issues Arising from the Audit Review into
Government Contracts

- 10.00am** **Introduction**
Ross Gibbs, Director, Public Record Office Victoria (PROV)
Prof Bill Russell, Chair, Audit Review Panel
- Audit Review and Records Management Issues
- 10.30am** **John Butler, Acting Victorian Government Solicitor**
- Redefining the Scope of the *Public Records Act, 1973*
- 10.50am** **Sophie Sturup, Director, Antur Projects**
- Privatised, Corporatised and Licence-Holder Entities and the Management of Public Records
- 11.10am** *Morning Tea*
- 11.30am** **Ross Gibbs, Director & Keeper of Public Records**
- Audit Review Recommendations and Implications for Government Records Managers
 - Overview of the role of PROV
 - Overview of Your Responsibilities under the Public Records Act
- 12.00noon** **Discussion of Issues Arising**
Chair, Ross Gibbs



Probity and the Public Record

Issues Arising from the Audit Review into
Government Contracts

Training Session

- 2.00pm** **Introduction**
Ross Gibbs, Director, PROV
- Compliance and Regulation: An Introduction to PROV**
Charlie Farrugia, Team Leader, Agency Services, PROV
Margaret Burns, Manager, Context Control, PROV
- 3.00pm** *Afternoon Tea*
- 3.30pm** **Managing your Electronic Records**
Howard Quenault Director VERS (Victorian Electronic Records Project), Department of Infrastructure
- 4.00pm** **Question and Answer Session**
Chair, Ross Gibbs, Director, PROV
- 4.30pm** **Tour of the Victorian Archives (optional)**



Probity and the Public Record

Issues Arising from the Audit Review into
Government Contracts

CONTEXT

Unprecedented Administrative Change 1992 – 1999

- 26 Government Departments Reduced to 8
- 211 Municipal Councils Reduced to 78
- 28 – 78 Public Bodies Removed From Government Control



Probity and the Public Record

Issues Arising from the Audit Review into
Government Contracts

PROV RESPONSE Summary

- Legislative Change 1996
- Unprecedented Transfer & Disposal Action 1992 - 2000
- Audit Review Submission May 2000



Probity and the Public Record

Issues Arising from the Audit Review into
Government Contracts

PROV RESPONSE Legislative Change

- Public Records Act 1973 - Amended by No.61/1996

Definition of Public Office Broadened by the Insertion of
Sec.2(1)(ba) to include -

A State owned enterprise within the meaning of the **State
Owned Enterprises Act 1992**



Probity and the Public Record

Issues Arising from the Audit Review into
Government Contracts

PROV RESPONSE Legislative Change

**Records of a Public Body Created Prior to Privatisation to Remain Public
Records by the Insertion of Sec. 2B.**

If a body corporate or unincorporate that is a public office ceases ...to be a
public office, then, despite that cessation –

(a) the records of the body that were in existence prior to that day continue to be
public records, and

(b) the Keeper of Public Records may make arrangements with the body to be
dealt with in accordance with this Act in the same manner as if the body had not
ceased to be a public office.



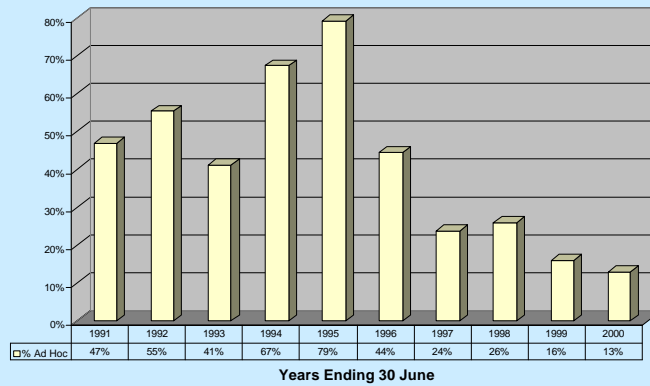
Probity and the Public Record

Issues Arising from the Audit Review into
Government Contracts

PROV RESPONSE

Unprecedented Transfer and Disposal Action 1992-2000

Percentage of Public Records Destroyed By Ad Hoc Authorities



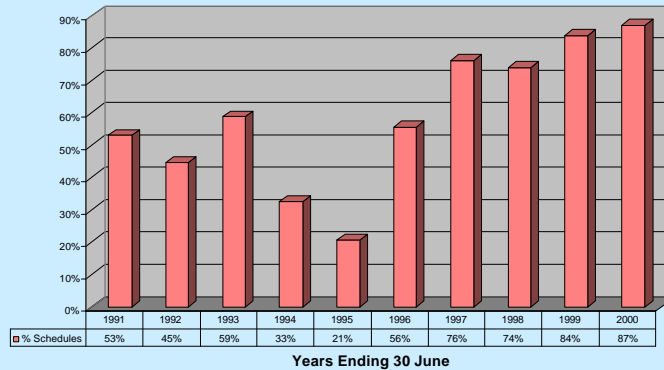
Probity and the Public Record

Issues Arising from the Audit Review into
Government Contracts

PROV RESPONSE

Unprecedented Transfer and Disposal Action 1992-2000

Percentage of Public Records Authorised for Destruction By
Disposal Schedules





Probity and the Public Record

Issues Arising from the Audit Review into Government Contracts

PROV RESPONSE

Audit Review Submissions

The PROV submission -

The Review *recommend* that:

- administrative maps of the privatisation and reform processes over the past ten years be completed and the current owners of the relevant companies be contacted regarding the eventual return of records produced prior to the entities' privatisation;
- arrangements be made for the return of any records held by Government owned corporations and, in the event of any legal doubt, these corporations be brought within the coverage of the *Public Records Act*, by amendment to that Act;



Probity and the Public Record

Issues Arising from the Audit Review into Government Contracts

PROV RESPONSE

Audit Review Submissions

- consideration be given to the management of the records of contracted out entities, including:
 - inclusion of appropriate training in records management in the VGPB's guidelines for the outsourcing of government services;
 - development of guidelines and an awareness campaign for contract managers within government;
 - consideration of clauses pertaining to records ownership in contracts with a view to alleviating the need to retain identical copies of documents.
- the contracts let by government over the past eight years should be investigated, with a view to ensuring that records held by contractors are being managed appropriately.



Probity and the Public Record

Issues Arising from the Audit Review into
Government Contracts

REVIEW RECOMMENDATIONS

3.15 That the Victorian Government

- **clarify whether all government corporations are covered by the *Public Records Act 1973***
 - Victorian Government Solicitor's confirmation - 14 Sept 2000
- **recover records currently in the possession of privatised or contracted out bodies**
 - identifying the bodies and the records
- **ensure that future contracts include clauses that include proper management of public records**
 - Victorian Government Purchasing Board



Probity and the Public Record

Issues Arising from the Audit Review into
Government Contracts

RESPONSIBILITIES - PUBLIC OFFICES

- Create and maintain full and accurate records of business of office [Sect. 13(a)]
- Carry out program of records management in accordance with standards established under Section 12 [Sect 13(b)]
- Take action to recover any public records unlawfully removed [Sect 13(c)]



Probity and the Public Record

Issues Arising from the Audit Review into Government Contracts

RESPONSIBILITIES - PUBLIC OFFICES

- Transfer public records greater than 25 years to custody of PROV in accordance with arrangements approved by the Keeper of Public Records [Sect 8A]
- Unlawful disposal [Sect 19(1)]
- Lawful destruction or disposal [Sect 19(2)]



Probity and the Public Record

Issues Arising from the Audit Review into Government Contracts

RESPONSIBILITIES - PROV

Establish standards for the efficient management of public records under Section 12 of the *Public Records Act* with respect to the:

- (a) creation, maintenance and security of public records
- (b) selection of public records worthy of preservation
- (c) transfer of public records to the Public Record Office
- (d) segregation and disposal of public records not worthy of preservation



Probity and the Public Record

Issues Arising from the Audit Review into
Government Contracts

PROV ROLES Training Program 2001

Records Management Network

Seminar 14 February 10am - 12noon

Implementing Disposal Schedules: Water Authorities

Training 14 February 1.00pm - 4.00pm

Regulation and Compliance: An Introduction to PROV

Training 14 March 9:30am - 12noon

Implementing Disposal Schedules: Local Government

Training 11 April 1.00pm - 4.00pm



Probity and the Public Record

Issues Arising from the Audit Review into
Government Contracts

PROV ROLES Training Program 2001

Regulation and Compliance: An Introduction to PROV

Training 09 May 9:30am - 12noon

Records Management Network

Seminar 13 June 10.00am - 12noon

Implementing Disposal Schedules: Common Administrative Records

Training 13 June 1.00pm - 4.00pm

Coming up in the second half of the year:

How to Develop Disposal Schedules



Probity and the Public Record

Issues Arising from the Audit Review into
Government Contracts

PROV ROLES

- **Power of Inspection**
Public Records Act 1973 Sec 13A
- **Unlawful Destruction or Removal**
Public Records Act 1973 Sec 19



Probity and the Public Record

Issues Arising from the Audit Review into
Government Contracts

PROV ROLES

13A. *Inspection of public office or other place*

The Keeper of Public Records may enter, at any reasonable time, a public office or any place in which the public records of that office are stored to inspect the storage and conservation arrangements of the records in the office or place of the programme of records management referred to in section 13(b)



Probity and the Public Record

Issues Arising from the Audit Review into
Government Contracts

PROV ROLES

19. *Offence to remove etc. public record without authority*

- (1) A person who unlawfully removes sells damages or destroys a public record shall be guilty of an offence.

Penalty: 5 penalty points

- (2) Destruction or disposal of public records by a public officer in accordance with standards established under section 12 is lawful.