

OAG Annual Plan, Transparency International NZ Comment

11 June 2019

Thank you for providing the opportunity for Transparency International NZ (TINZ) to comment on the OAG Draft Annual Plan for 2019/20. We apologise for the late provision of our comment. Our resources have been stretched, focusing on completing our Financial Integrity System Assessment methodology and the National Integrity System Assessment 2018 Update. We thank you for reading our comments at this time and understand if they are too late to be included.

We want to commend the OAG for its commitment to addressing bribery and corruption as part of its practice. Incorporating it in the required monitoring of public sector entities is a major step forward to widening knowledge about the ways in which bribery and corruption can take place, the many channels for illicit funds from overseas and the practices that can be adopted to prevent internal corruption and protect against internationally-generated corrupt activities.

Below we comment on specific topics the OAG has mentioned for its 2019/20 Annual Plan.

Please feel free to contact Julie Haggie, CEO or Suzanne Snively, Chair, for any further comment.

1. **MBIE procurement function**, and, in particular, on how MBIE develops procurement workforce expertise and capability in central government.
 - a. TINZ's submission on the proposed changes to the Government Procurement Rules highlighted important gaps in the proposed code of conduct for suppliers, which require addressing or otherwise its impact on suppliers will be less effective. These included a lack of clarity around the roles and expected behaviours of senior leaders (they need to pay attention at the very least to the process – if all the activities are delegated, there's an increased likelihood of bribery and corruption); effective actions to follow up where issues are identified, particularly whistleblowing, and consequences to those involved in procurement when there are failures to abide by the rules (note too that the rules need to be clear in identifying what the rules are, making it as transparent as possible when there is good conduct and when there are transgressions). We also supported:
 - i. greater integration of several elements within the Procurement Rules:
 - ii. Governance responsibility and engagement;
 - iii. Risk Assessment, including in relation to the supply chain;
 - iv. Independent and internal auditing of contracted outcomes against budgeted expenditure on them (during the time of the contract, not just at the end);
 - v. Monitoring, through audit and proactive discussions on ethical business practices and challenges;
 - vi. Reporting against benefits and outcomes at regular intervals during the contract period; and
 - vii. A focus on continuous improvement; and
 - viii. more visibility of tiers 2,3+ within a supply chain activity, ensuring the government is not actively supporting terrorism, modern slavery or exploitation.

- b. The Rules do not specifically address the Treaty of Waitangi and the associated procurement obligations under the Treaty. TINZ notes that the Crown must act consistently with Treaty Principles and these principles also apply to any supply chain that has a base of public funding.
2. **Local Govt procurement** – the same points above apply to local government procurement as those for central government. TINZ notes that there is value in a greater focus on how local government integrates Treaty Principles into its procurement practice, and how effective this is. This is a key area of development for the procurement workforce for some TLAs.
3. **Procurement of assets to support effective healthcare.** Considering the impact of ageing populations, all DHBs should be taking a medium to long term approach to planning for rising need, and this should flow through to assets, workforce, closer collaboration on national goals and on operational and clinical expertise, and strategic and cultural collaboration. The funding structure has generated regional focus and a needs-based approach, but also fiefdom, patch protection, technology misalignment and cherry picking on national procurement decisions. The primary health funding model, meanwhile, has avoided serious independent scrutiny. Some elements need to be nationally managed or have greater national direction (eg health record infrastructure, national health information framework health information privacy and security, workforce including specialist deployment). Others can be managed at the DHB (or shared service) level. However national principles need to be applied to any procurement or strategic decision, and vice versa.

A key area for procurement workforce development is around ways of collaborating to identify economies of scale and value of effective sharing of information, including where it makes sense to have one national contract instead of many siloed ones and where the additional competition for a number of contracts produces more effective outcomes. TINZ is concerned that the small scale of contracts can leave government exposed if these contracts overlook the provisions of tone at the top, whistleblowing and other activities that service to detect, protect and prevent corruption.

4. **The NZTA procurement model.** NZTA's 'State Highway Environmental Plan' includes environmental performance indicators towards sustainable management set by Transit. These are to be reviewed and revised "as we progress towards sustainable management". It is not clear who has oversight of NZTA's review and revision of these. Considering the contribution of roading, vehicle emissions and heavy metal pollution caused by tyres and use to overall pollution in New Zealand, we ask who holds the auditing pen on environmental accountability systems? TINZ has attended overseas conferences where the theme is that without transparency the next channel for corruption will be related to activities, financial or otherwise. There is little likelihood of gaining environmentally sustainable outcomes if procurers are poorly informed.
5. We support OAG's work to strengthen defence procurement. The New Zealand Defence Force scored an "A" the 2015 Government Defence Anti-corruption Index; however, of the over 70 areas scored, key areas of weakness were in procurement.

6. **Family violence** We Support any approach that has a solid base of evidence¹. We also reference Quigley & Watts research including a literature review that shows that International researchers agree that preventing violence before it occurs – primary prevention – is crucial and attainable (World Health Organization 2013, Bellis et al 2012, World Health Organization 2010, VicHealth 2007). Many countries, e.g. Australia and the US, are strengthening their focus on primary prevention. A key area for more transparency in procurement of services to detect, prevent and break the cycle of family violence is monitoring around the medium and long-term outcomes. Procurement of services that give the appearance of addressing the problem in the short-term without a longer-term context have to date failed to achieve any change – indeed, despite a massive increase in government spending in this area, the number of victims of child and intimate partner abuse is greater than it was prior to governments treating the reduction in family violence as a priority.

7. We are very supportive of the OAG’s engagement in projects such as the Tamaki regeneration programme and the Kiwibuild implementation, Auckland City Rail Link and Provincial Growth Fund. We support greater emphasis on the transparency of spending on these large projects, considering the amount of money being spent and the public concern around it. The Rodney District Council case is an example of the nature of bribery and corruption that can take place and the costs to staff and ratepayers from this inappropriate conduct.

8. Progress towards implementation of the SDGs.

Whilst we appreciate the focus will be on the coordination by MFAT, it is our perception that across the public sector there is a low level of understanding and engagement with the SDGs, and certainly compared to other countries. TINZ strongly recommends that the OAG include a focus on SDG Goal 16 in its workplan. This focus on governance provides a context for other SDGs to be more effective. The specific focus of goals 16.5.1 and 16.5.2 on the identification of universal measures of corruption for the public sector and business provides a strong tool for monitoring and then learning ways of preventing corruption both onshore and offshore.

9. **Ethics and integrity landscape.** We are very supportive of this work by the OAG. We think there is value in the OAG focussing on emerging trends (eg organised crime, cryptocurrency fraud and cyber fraud, scamming) and how government agencies are engaging with their leadership, their staff and their client base and contracted suppliers to keep raising integrity. TINZ view is that strong integrity systems are the most effective way of fighting corruption – of detecting, preventing and protecting against corruption activities including bribery and fraud.

10. **Local government stock take.** There are five matters TINZ recommends that OAG focus on when dealing with audit and risk committees: tone at the top, money laundering, managing conflicts of interest, policies aimed at enabling people to speak up (whistle blowing) and transparency.

¹ <https://www.msd.govt.nz/documents/about-msd-and-our-work/work-programmes/initiatives/action-family-violence/what-works-to-prevent-intimate-partner-violence-and-elder-abuse-25-09-2013-taskforce-meeting.pdf>