



OFFICE OF THE CHIEF EXECUTIVE OFFICER

Ref: 579639

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Mr Jon Bell
Committee Secretary
Parliamentary Joint Committee on the Australian Commission
for Law Enforcement Integrity
PO Box 6100
Parliament House
CANBERRA ACT 2600

Dear Mr Bell

Re: Inquiry into the integrity of overseas Commonwealth law enforcement operations

The Australian Transaction Reports and Analysis Centre (AUSTRAC) welcomes the opportunity to provide a submission to the Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity's inquiry into the integrity of overseas Commonwealth law enforcement operations.

AUSTRAC performs dual and complementary roles as Australia's financial intelligence unit (FIU) and anti-money laundering and counter-terrorism financing (AML/CTF) regulator. In its intelligence role, AUSTRAC collects, analyses and disseminates financial intelligence obtained through financial transaction reports, to its various domestic partner agencies and international counterparts. AUSTRAC's domestic partners include Australian Government law enforcement, national security, revenue, regulatory, anti-corruption and social justice agencies, as well as State and Territory law enforcement and revenue agencies. AUSTRAC's partner agencies and international counterparts use AUSTRAC information in their investigations into money laundering, fraud, drug offences, people smuggling and other serious crimes.

In its regulatory role, AUSTRAC oversees compliance with the requirements of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) and the *Financial Transaction Reports Act 1988* (FTR Act) by a wide range of financial services providers, bullion dealers, designated remittance service providers, the gambling industry and other 'reporting entities', as well as 'cash dealers' (as defined in the FTR Act). AUSTRAC undertakes a range of supervisory activities from education, guidance, audit and inspection through to enforcement.

Although recognising that both its functions support the broader enforcement of laws of the Commonwealth, AUSTRAC does not consider itself to be, nor is it recognised within the Commonwealth as being, a law enforcement agency.

AUSTRAC provides the following information in response to the terms of reference of this inquiry.

AUSTRAC management and prevention of corruption risk associated with the delivery of international technical assistance and training

AUSTRAC conducts technical assistance and training (TA&T) programs in four regions: South-East Asia, South Asia, the Pacific and Africa. TA&T programs are delivered to FIUs and AML/CTF regulators to improve national capacity to detect and deter money laundering and terrorism financing.

TA&T assistance is provided to recipient countries through in-country mentoring, as well as tailored training workshops. To administer these programs, AUSTRAC currently employs 17 staff. Deployments are usually short term (one to two weeks) with the exception of the Indonesian and Australian FIU Partnership Program, which has had two AUSTRAC officers stationed in the Indonesian FIU since 2009.

There have not been any investigations or allegations relating to corruption or fraudulent activity associated with the delivery of AUSTRAC's TA&T programs. These programs are formally monitored in accordance with a range of overarching internal AUSTRAC policies and procedures.

In 2011 AUSTRAC conducted an agency-wide internal fraud risk assessment report which focused on identifying risks associated with staff adherence to internal policies and related administrative procedures. The report identified a moderate level of fraud-related risk which could potentially occur within the scope of AUSTRAC's current TA&T programs. Key areas of identified risk were associated with the following:

- purchase and distribution of goods and services by staff, associated with the delivery of in-country training workshops and events
- general staff conduct and interaction with international stakeholders in locations of differing cultural customs and values.

To mitigate these identified risks, AUSTRAC implemented the following controls:

- An internal governance working group was established to identify and develop strategies associated with areas of operational practice which may pose a risk when conducting TA&T overseas. This group meets quarterly to monitor the development of administrative business systems and processes, including the review of existing standard operating procedures (SOPs) to ensure compliance with AUSTRAC's internal policies and internal audit recommendations. The group operates in consultation with AUSTRAC's agency-wide risk advisor.
- In consultation with AUSTRAC's Procurement and Contracts Unit, and Financial Services units, a number of SOPs have been developed for TA&T officers when entering into international transactions associated with the procurement of goods and service delivery agreements in line with the *Financial Management and Accountability Act 1997* (FMA Act).
- To enhance SOP compliance, AUSTRAC has customised a number of its templates and registers. Examples include:
 - the design and implementation of a cash payment receipt form, to formalise procedures associated with the issue of travel allowance payments to AUSTRAC-sponsored workshop participants
 - the implementation of an international travel SOP which highlights AUSTRAC's protocol and procedures associated with the management of travel allowances, gifts and benefits

- establishment and continued review of an agency-wide corporate gift register
- the design and implementation of a formalised pre-international travel checklist template which reinforces to officers that they are required to abide by the Australian Public Service (APS) Code of Conduct at all times.
- AUSTRAC TA&T officers do not have access to AUSTRAC's intelligence and information systems, limiting any potential misuse of information.
- AUSTRAC TA&T officers engage with international officers using hypothetical scenarios and sanitised information, limiting discussions which could relate to ongoing investigations.
- AUSTRAC TA&T officers comply with the Commonwealth's Contact Reporting Regime.
- AUSTRAC reviews its internal policies and related SOPs associated with its international delivery of TA&T initiatives on a biannual basis.

AUSTRAC has the ability to monitor its TA&T programs closely, through a number of formal reporting mechanisms. AUSTRAC currently:

- engages in regular dialogue with Australia's overseas missions and reports on milestones associated with the delivery of TA&T activities via the Department of Foreign Affairs and Trade's secure telecommunications information network
- ensures that TA&T officers complete a post-workshop report within three weeks of arrival back into Australia
- ensures that TA&T post-workshop reports are reviewed and disseminated to relevant stakeholders
- reports regularly on the financial management of its externally funded TA&T programs in line with AusAID's overarching grant funding program requirements.

To ensure expenditure of goods and services pertaining to TA&T training events is in accordance with the relevant funding agreement, the FMA Act, AUSTRAC's procurement guidelines and the APS Code of Conduct, current mandatory reporting protocols ensure that staff:

- submit a project brief outlining a project's objectives and rationale (including a comprehensive budget of total forecasted expenditure) for approval by the appropriate delegate prior to a project's commencement
- submit all training-related venue hire contracts to AUSTRAC's Procurement and Contracts Unit for approval, prior to higher level approval by the appropriate delegate
- submit a detailed business case prior to travelling overseas on official business, to be approved at executive management level
- complete a detailed post-workshop activity report upon completion of work undertaken in line with the relevant program funding agreement.

To raise awareness of the accountabilities and importance of managing risk associated with the delivery of TA&T, AUSTRAC staff have also undertaken additional training opportunities. As an example, in June 2011, 12 members of AUSTRAC's TA&T team participated in an intensive, tailored, two-day security risk management training

workshop addressing corruption risk prevention. This training was aimed at supporting TA&T officers in further developing their knowledge of principles associated with the identification, evaluation and implementation of treatments for risk.

AUSTRAC management and prevention of corruption risk associated with the analysis and dissemination of international intelligence exchanges

AUSTRAC will not exchange intelligence with a foreign FIU unless an exchange instrument has been negotiated, in the form of a memorandum of understanding or specific written undertaking between AUSTRAC and the corresponding FIU.

While there have not been any investigations or allegations relating to corruption or fraudulent activity associated with AUSTRAC's dissemination of international intelligence exchanges, AUSTRAC has identified the following key areas of potential risk relating to this activity:

- unauthorised access to intelligence and information held on person(s) who are subject to investigation, by individuals not involved in the investigation and who do not have a 'need to know'
- the electronic or physical interception of intelligence and information being exchanged
- the interaction of AUSTRAC officers with overseas counterparts conducted outside the formal information exchange arrangements; for example, conferences where operational methodologies and cases are the focus of those meetings.

AUSTRAC mitigates exposure to risks associated with the international exchange of intelligence through a variety of measures, including:

- ensuring all AUSTRAC personnel involved in the production and handling of intelligence obtain and maintain the appropriate security clearance
- monitoring access to AUSTRAC intelligence and information systems, and maintaining a computer access log which provides a record of AUSTRAC information accessed online by members of staff and authorised users from other domestic government agencies
- requiring that all requests being considered for the exchange of intelligence provide, at a minimum, the reason for the request, the purpose for which the information and documents will be used, the law enforcement agency or agencies in the country of the foreign counterpart which will be given access to the information or documents, the reasons for providing the information or documents to that agency or those agencies, and enough information to satisfy AUSTRAC that the request complies with domestic laws of the requesting country
- limiting online contact between international investigators and AUSTRAC officers through the use of templates and generic secure email accounts for the receipt of requests for information and dissemination of responses to requests for intelligence exchanges
- ensuring all responses to foreign jurisdictions are cleared by the AUSTRAC Chief Executive Officer or authorised delegate
- ensuring that all intelligence exchanges are communicated via a jointly agreed procedure – the primary dissemination of information is conducted through the

Egmont Group of FIUs' 'Egmont Secure Web', a secure encrypted capability enabling the sharing of information over the internet

- ensuring AUSTRAC's Egmont secure email accounts are regularly monitored with limited user access provided on a role and 'need to know' basis
- providing mandatory privacy and security training to AUSTRAC staff.

AUSTRAC recognises that other Commonwealth agencies, including the Australian Federal Police and Australian Commission for Law Enforcement Integrity, possess strategic and operational expertise and experience in the area of managing corruption risks. AUSTRAC will continue to seek the advice and assistance of these agencies, as required, when reviewing procedures and assessing risks in relation to the operations of its TA&T program and its international exchange of information.

AUSTRAC would be pleased to provide any further information which may assist the Committee.

Yours sincerely

John L Schmidt
CHIEF EXECUTIVE OFFICER