Corruption matters

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ICAC
INDEPENDENT COMMISSION AGAINST CORRUPTION

Houses of cards come tumbling down

Large scale and serious deficiencies in the operation of a number of NSW government agencies were revealed by two investigations on which the Commission reported in late December 2005.

The Commission's Operation Cassowary investigated safety certification and the operations of the WorkCover NSW Licensing Unit, where deficiencies made it possible for fraudulent competency certificates to be issued. The report on this investigation was published on 14 December 2005.

Operation Ambrosia exposed how corrupt individuals exploited deficiencies in the Office of Fair Trading (OFT),

TAFE NSW, the Building Industry Skills Centre and the Vocational Education and Training Accreditation Board in order to have building licences issued to unqualified people. The report on this investigation was published on 21 December 2005.

The WorkCover investigation uncovered a scheme that had been running for about four years in which WorkCover employees, predominantly Wendy Whitcher, created and issued thousands of false certificates of competency.

These certificates were sold and disseminated through a network of distributors. The certificates were passed to many hundreds of industrial workers who had not undergone the required

assessment process to prove their competency in handling potentially dangerous machinery and equipment.

Arising from the WorkCover investigation, the ICAC Commissioner, the Hon Jerrold Cripps QC, found that 23 people had engaged in corrupt conduct, including three former WorkCover employees, 16 distributors of the false licences and four "applicants", namely recipients of the false licences.

Importantly, this investigation revealed the ease with which corrupt individuals were able to identify and exploit major deficiencies in WorkCover's systems for issuing certificates of competency, such as the lack of checks and controls on the use of passwords and on changing licence holders' details on WorkCover's

information system, as well as the need for an audit regime.

Operation Ambrosia, one of the biggest and most complex investigations undertaken by the ICAC, resulted in 36 people being found corrupt, with 121 charges referred to the DPP.

One part of this investigation focused on a registered training organisation (RTO) called the Quatra Consulting Group Pty Ltd, the directors of which, Ian More and Alan Williams, collaborated in creating false documentation to help applicants pass the OFT's checks and the BISC's building licence assessment (BLA) and thus obtain a building licence.

Terence Cole QC keynote speaker at investigations symposium

The Hon Terence Cole AO RFD QC will be the keynote speaker at the 6th National Investigations Symposium.

Mr Cole, who has been conducting the Inquiry into certain Australian companies in relation to the UN Oil-for-Food Programme, will deliver the address to the opening plenary session of the symposium, to be held at the Manly Pacific Hotel, Manly on 2 & 3 November 2006.

The symposium, which is held every two years, has become a major Australian forum for public officials who undertake fact-finding exercises.

It is an ideal opportunity for investigators, complaint handlers, internal auditors, officials from regulatory agencies, and people who conduct administrative and disciplinary investigations in government agencies and local councils to upgrade their knowledge and skills.

The key theme of the symposium, which is a joint initiative of the ICAC, the NSW Ombudsman and the Institute of Public Administration Australia (IPAA), is best practice, and the skills, knowledge and resources needed to conduct effective fact-finding exercises.

Leading investigators and practitioners in the field will deliver over 30 presentations.

Among the presentations will be:
- ■ Mick Palmer AO on the lessons learnt from the Cornelia Rau inquiry
- ■ The Hon James Wood on overseeing integrity agencies
- ■ Nick Kaldas, Assistant Commissioner Counter Terrorism, NSW Police, on challenges of leading investigations in Iraq and the impact of global events for Australia
- ■ New research findings from the national 'Whistling While They Work' research program

- ■ Emerging trends and counter-measures to government welfare fraud
- ■ ASIC insights into insider trading

The full program will be published in July and can be viewed at **www.nsw.ipaa.org.au**.

Registration fees range from $880 per person (early bird prior to 20 September) to $990 per person, with discounts for multiple corporate bookings and IPAA members.

For further information email betty@nsw.ipaa.org.au or telephone the IPAA NSW office on (02) 9228 5225.

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what's inside

Commissioner's editorial

While we live in a society that relies to a large extent on the fact that people trust each other, the combination of lax systems and the opportunities to exploit those systems can be irresistible to some people — and lead to corrupt conduct.

Corruption is in essence a secret arrangement or conspiracy between two or more parties for personal and mutual gain. Unlike a bank robbery, a car theft or a murder, there appear to be no victims. And so long as the secret is maintained and the benefits continue flowing to those involved, why tell?

Why indeed? Because, apart from the moral and ethical aspects of corruption, there are victims — always. Be it directly or indirectly, immediately or over a period of time, the community as a whole is ultimately the victim of corrupt conduct. And in some cases, so are many individuals.

Recent ICAC investigations, such as Operation Cassowary and Operation Ambrosia, which are described in this issue's cover story, highlight the far-reaching consequences of corrupt conduct on institutions and individuals.

Amongst several corrupt schemes uncovered during the Ambrosia investigation, for example, was one in which the names of people not entitled to TAFE qualifications were substituted for the names of genuine qualification holders on TAFE's electronic Student Information System.

The genuine students were the immediate victims in that their electronic student records were destroyed; the value of TAFE qualifications was undermined in the eyes of the community, and the holders of the false qualifications were ultimately able to undertake work which, because they had neither the genuine qualifications nor the experience to carry out the work, posed potentially great risk to themselves, their employers and the general public.

The dynamics of corruption as outlined above set corrupt conduct apart from most forms of criminal behaviour and provide the very raison d'être for an organisation like the ICAC.

It is important to remember that the Commission's powers are focused on determining facts. The secretive, complicit nature of corrupt conduct and the fact that the victims are often unaware of the conduct, mean that eliciting the full extent of the corrupt conduct can be difficult.

It is for this reason that among the ICAC's powers is the power to compel witnesses who appear before it to answer questions. Unlike in a court, those giving evidence cannot choose to remain silent.

Balancing this coercive power, designed to elicit facts, is provision for witnesses giving evidence to the ICAC to do so under objection. In such cases, the evidence they give cannot be used in any subsequent criminal proceedings, except for offences such as giving false or misleading evidence to the ICAC.

The ICAC's coercive powers are necessary for the organisation to fulfil its statutory functions of investigating and exposing corruption. They are, however, very properly subject to a range of checks and balances to ensure they are used responsibly, that the ICAC is accountable for their use and that the ICAC's fact-finding function is separated from any judicial process.

The ICAC's investigative work is complemented by its corruption prevention work, which aims to help public sector organisations and officials recognise and address corruption risks.

The ICAC's corruption prevention staff work closely with public officials and organisations in providing corruption prevention advice, resource materials and training and presentations targeted to specific public sector audiences.

This edition of *Corruption Matters* highlights the range and diversity of the ICAC's work. It also features accounts from a number of individuals and organisations that have benefited from their interaction with the ICAC. I hope you find this issue interesting and informative.

[signature]

The Hon Jerrold Cripps QC
Commissioner

Misuse of resources

Misuse of public resources is one of the most frequent allegations the ICAC receives.

Such allegations can concern misuse of public funds — from small amounts of cash to large-scale embezzlement — and they can also include a wide range of non-financial misuse of resources.

Section 8 of the *Independent Commission Against Corruption Act 1988* (the ICAC Act) includes in its definition of corrupt conduct "any conduct of a public official that involves the misuse of information or material that he or she has acquired in the course of his or her official functions, **whether or not for his or her benefit or for the benefit of any other person**" [emphasis added].

During 2005 the ICAC received about 315 complaints or allegations relating to misuse and theft of resources, including:
- funds (cash, credit card, electronic)
- property (including documents)
- information
- positions
- vehicles

- email/internet
- fuel cards
- telephones/computers
- labour.

It is important (and in fact a legal obligation on the part of CEOs) to report **all** suspected as well as actual corrupt conduct to the ICAC, regardless of whether it appears major or minor.

This is because matters which initially appear to be minor may turn out to be major or indicative of a systemic corruption problem. In addition, timely reporting may not only lead to the uncovering of further and/or unsuspected conduct but also help prevent ongoing or future corruption.

The ICAC may refer the matter back to the organisation making the allegation for internal investigation or disciplinary action; it may refer the matter to another organisation, such as the NSW Ombudsman or the NSW Police; or it may undertake its own investigation.

For more information about reporting to the ICAC, visit **http://www.icac.nsw.gov.au/go/reporting-corruption**.

Examples of misuse allegations reported to the ICAC

- A council reported an allegation from a contractor who had done some work at the home of a council officer. The contractor alleged that the council officer had used council funds to pay for the private work by presenting two invoices totalling about $12,000 to council for payment and that the council had in fact paid him (the contractor).

  The council conducted a preliminary investigation and formed the view that the allegation was probably true. The council officer was suspended while the matter was investigated further, and he eventually resigned. The council also reported the matter to the police, who interviewed and then charged the officer. He was convicted, ordered to repay the money to the council and placed on a good behaviour bond.

- A university reported that an officer had run up a telephone and internet bill of more than $14,000. The officer was found to have misused university resources for private use. She offered her resignation and agreed to repay the money.

- A health service reported findings of corrupt conduct by a typist who was using her work computer to undertake work, albeit voluntary, for a commercial organisation during her normal work hours. Even though there was no financial gain involved, the conduct was corrupt and the typist resigned from her position at the health service once the allegations were put to her.

Courting trouble

The ICAC has called on the NSW Attorney-General's Department to introduce a public awareness campaign to educate non-English speaking background (NESB) communities about the judicial system in New South Wales and what they should expect when dealing with court officials.

The call is contained in one of the 12 corruption prevention recommendations arising out of the Commission's investigation into the conduct of an officer of the Local Court Registry at Penrith.

The report of the investigation, codenamed Operation Hunter, was published at the end of February 2006. It revealed that Faraj Harb, a clerk at Penrith Court, had corruptly misused his position to exploit people of similar, namely Arabic-speaking, background. These people were largely unaware of the Australian judicial system and legal processes and had a poor command of the English language.

Mr Harb offered various forms of assistance or advice to individuals who were involved in legal proceedings or, in one instance, had difficulties with a local council.

Mr Harb improperly accessed and disseminated confidential personal information from the local courts computer database and he sought, and in some cases received, payments for his purported "assistance" and advice.

Mr Harb's "assistance" included offering to undertake debt collection; drafting a false letter in mitigation of a drink-driving charge and "assisting" the person charged at his court appearance;

posing as an officer of the "Criminal Division in Penrith" who could arrange telephone surveillance, and pretending that a bribe would be offered to the Mayor of Fairfield to obtain final certification for a building.

The ICAC recommended in its investigation report that the Attorney-General's Department tighten and audit access to its confidential databases, enhance its compliance controls and introduce staff training on information security.

Following the publication of the report in February 2006, the ICAC Commissioner, the Hon Jerrold Cripps QC, wrote to 20 leaders in the NSW Lebanese and Arabic-speaking community, advising them of the investigation and enclosing samples of the Commission's print and web-based resources available in Arabic to help them raise awareness within their communities of corrupt conduct and how to deal with it.

"The ICAC has been implementing a communications strategy targeting non-English-speaking background communities over the last three years," the Commissioner said. "This investigation clearly identifies how members of non-English speaking background communities may be targeted by corrupt individuals."

The ICAC produces a range of materials in 29 languages other than English. They have been distributed to community and migrant resource centres throughout New South Wales, and to all public sector agencies. Many of these resources can be downloaded from the website **www.icac.nsw.gov.au**.

Steering a straight path through direct negotiations

Direct negotiations — defined as exclusive negotiations between an agency and a proponent without first undergoing a genuine competitive process — are by their very nature a closed process.

They can therefore create opportunities for dishonesty or bias that could amount to corruption. In addition, the absence of competition that is their chief characteristic makes it difficult for an agency to ensure, and prove to the public, that it is obtaining value for money.

Equally important, direct negotiations can often create the perception of conflict of interest or improper conduct.

It is therefore scarcely surprising that directly negotiated arrangements, as opposed to a traditional 'open competition' approach, generate a significant number of complaints, allegations and requests for advice to the ICAC.

These complaints generally include such allegations as unfair advantage being conferred upon particular proponents, leaking of confidential information, bias in assessing proposals, nepotism, mismanaging conflicts of interest and excluding competition.

These complaints are an indication of the minefield of corruption risks that direct negotiations can present if they are not managed carefully and with great probity.

Because of the risks involved, the ICAC recommends that agencies should as a general rule avoid direct negotiations. Where they cannot be avoided, agencies should be aware of the risks and actively address them.

A new guide, *Direct Negotiations: Guidelines for managing direct negotiations in the public sector*, has just been published by the ICAC to help agencies steer their way through the pitfalls of the direct negotiation process.

The guide provides important information and best-practice guidelines to help agencies identify direct negotiation scenarios, find alternatives to direct negotiations wherever possible and, where direct negotiations are the best or only alternative, manage them in a manner that is impartial, accountable, transparent and delivers best value for money.

The new publication is being distributed to NSW public sector organisations and councils. To obtain a copy of *Direct Negotiations* contact the ICAC or download a copy from the website **www.icac.nsw.gov.au**.

Current investigations

The outcomes of two ICAC investigations that culminated in public inquiries earlier this year are due to be published shortly.

In January, the ICAC held a public inquiry as part of Operation Inca, an investigation into the alleged cover-up of an assault on an inmate at Parramatta Correctional Centre in August 2005.

The ICAC investigation followed a complaint to the Commission from the Department of Corrective Services about an incident in which Parramatta Correctional Centre's Acting Deputy Governor, Jeffrey Strange, allegedly used excessive force on an inmate.

Incidents involving the use of force on a prison inmate are video recorded whenever possible, partly to protect those involved from false allegations, and partly to help monitor the activities of inmates and correctional officers.

An allegation of an assault on a prisoner would not normally warrant investigation by the ICAC. In fact, the ICAC would normally refer such complaints back to the Department of Corrective Services for internal investigation and in this case, the Department did undertake an internal investigation into the matter.

However, when officers of the Department found that the video recording of the incident had been edited and footage containing evidence

of the alleged assault was missing, a report was made to the ICAC.

Such conduct could involve offences of acting with intent to pervert the course of justice or the administration of the law contrary to section 319 of the *Crimes Act 1900*.

The Hon Jerrold Cripps QC presided over the seven days of the public inquiry, during which 18 witnesses gave evidence. Carolyn Davenport SC was Counsel Assisting.

Operation Aztec

In February the ICAC held a public inquiry as part of its investigation into allegations of corrupt conduct in the NSW Department of Housing.

The investigation, codenamed Operation Aztec, primarily concerned a former public official, Graham Wade, who was responsible for selling surplus residential properties on behalf of the former Home Purchase Assistance Authority and the Department of Housing, and two real estate agents, John Ashe and Ken Williams, who were involved in these sales.

The ICAC investigated allegations that these men, and possibly others, engaged in corrupt conduct, including criminal fraud and misconduct, between early 2000 and early 2005.

The findings of both investigations will be contained in the reports currently being prepared for presentation to Parliament.

Focusoneducation

Corruption awareness in academia

by Rhonda Hawkins, Deputy Vice-Chancellor (Corporate Services), University of Western Sydney

Over the past five years the University of Western Sydney has undergone major structural and operational change, unifying three relatively independent member institutions under one administrative and academic structure.

In a difficult journey, every area of the University, including its structure, policies, processes and routines, was subject to review, renewal or reinvention. All of this occurred within a period of significant sector-wide reform, competition for resources and the introduction of an array of complex, and at times onerous, reporting requirements.

One of our highest priorities was to build a principle-based and robust policy and staff development framework for dealing with corruption. The UWS approach is not just of compliance but also of improved understanding and empowering staff and students to build a culture of individual and institutional integrity, fairness and transparency.

The development of policy and promotion of the Code of Conduct substantially raised the University community's awareness of issues of organisational corruption. It is less clear that this has been matched by an understanding of the potential for corruption in academic life and the forms that this might take. Talk of plagiarism strikes a familiar chord and evokes an informed and structured response, but the breadth of potential abuses of the academic process is less well understood or acknowledged.

The UWS is now carrying out a corruption prevention workplace project which provides explicit opportunities for key academic managers to examine corruption in academic life and to assist in designing development programs and tools to handle issues as they arise.

This project allows staff to raise issues and provide support and advice to others while building a repository of experiences and information accessible

to staff encountering unusual or troubling issues.

Knowing about and dealing with corruption is as important for individual staff and students as it is for the University as a whole. While leadership is a key focus of UWS's 2006 professional development program, this will also target staff working at the "chalkface" or on research projects. The key objective will be to ensure the quality and integrity of courses, relationships with students and administrative arrangements and to:

■ raise awareness of corruption within the broader academic and student population

■ focus leadership on improving understanding, assisting corruption prevention and building a greater sense of institutional integrity

■ promote the timely identification and purposeful and confident handling of instances of corruption.

The project will include the development of an "academic work" corruption prevention toolkit for managers at all levels.

A steering group for the project is now in place and the first of a series of interactive workshops for academic managers and key senior staff is planned for May.

Rhonda Hawkins took part in the 2005 ANU/ICAC Corruption and Anti-Corruption Executive Program and is leading the UWS corruption prevention workplace project.

Train-the-trainer module launch

In July the ICAC is launching a new three-hour train-the-trainer corruption prevention module designed specifically for universities. The module consists of an introduction to the ICAC, insights into identifying corruption and managing conflicts of interest, plus some strategies to help senior university staff recognise and deal with corruption risks.

The module, which the ICAC piloted last year at the University of Wollongong, Macquarie International and UWS, is intended to help universities integrate corruption minimisation into their professional development programs for academic and administrative managers.

It will be launched in Sydney with a presentation to invited university compliance and training staff.

ANU/ICAC Executive Program

The annual ANU/ICAC Corruption and Anti-Corruption Executive Program is the only graduate course in Australia that offers an in-depth study of the causes of corruption and effective corruption prevention strategies. The program has been run jointly by the ICAC and the Policy and Governance Program of the Asia–Pacific School of Economics and Government at ANU since 1998.

In that time more than 240 students from many areas of expertise and more than 35 countries have attended the two-week course.

In 2001, the ICAC established a scholarship program for NSW public officials to attend the program, the aim being to enhance the ability of senior NSW public officials, in both state and local government, to advance and prevent corruption in their agencies.

Over time, it is hoped that this group of graduates will develop into a network of senior managers whose awareness of the many manifestations of corruption, and whose skills in preventing and countering it, will raise the level of the ethical culture in the NSW public sector overall.

To date 30 people from a range of government departments have been awarded scholarships to take part in the program.

The general managers from three regional councils in New South Wales, Andrew Roach of Blayney, John Christopherson of Ballina, and Max Kershaw of Gunnedah Shire Councils, attended the ANU/ICAC course in November 2005. Here they describe the benefits for them, their organisations and their communities:

Andrew Roach, Blayney Shire Council:

■ Coming from a local government environment, there isn't much time to read and study the academic approach to many things, so for me the week in Canberra with access to ANU professors, meeting overseas students, and interaction with people from other state government agencies was invaluable.

■ One of the instant benefits my Council has derived from my attendance at the course was the opportunity to exchange and compare policies with other NSW government departments. As a result Blayney is refining its development and approval policy and the Council has adopted the Local Government Code of Conduct. Other corruption prevention changes are also in the pipeline.

■ The course structure split between the academic and the practical was brilliant. It enabled participants to apply some of the academic learning from the previous week to actual incidents reported to the ICAC. Practical outcomes carry more weight in the workforce, and this was appreciated.

■ We are building on what I have learnt by sending the Blayney Director of Corporate Services to ICAC's regional and rural outreach program in Dubbo in May. And several councillors have expressed interest in attending future ICAC courses as well.

Max Kershaw, Gunnedah Shire Council:

■ The examples, personal experiences and corruption-related topics put forward by students from the Pacific Islands, India, Bhutan, Papua and PNG opened my eyes and got me out of my comfort zone.

■ The course reinforced for me the need to be constantly vigilant, to support and implement corruption awareness and corruption prevention educational programs, policies and practices, and for both councillors and the management team to lead by example and "walk the talk".

■ I now have a better understanding of policy development, investigation and organisational review techniques in relation to corruption prevention strategies.

■ Gunnedah Shire Council over the next months will be taking steps to:
  ☐ review all relevant policies, for example secondary employment, use of Council's resources and legislative requirements in relation to ethical behaviour
  ☐ amend induction procedures and staff manual to promote employees' awareness of their legal obligations, particularly in relation to secondary employment
  ☐ amend annual performance reviews
  ☐ upskill and train councillors in corruption awareness and corruption prevention
  ☐ promote the Council's Code of Conduct to the broader community
  ☐ introduce new internal communication strategies
  ☐ introduce desktop audits.

John Christopherson, Ballina Shire Council:

■ The main benefits for me were that I gained a much deeper understanding of the importance of corruption prevention as well as of reporting and acting on corruption after the event. I also understood the ICAC processes and ICAC's training, awareness and advisory roles much more thoroughly.

■ The benefits to Ballina are that the Council is adopting a more proactive approach to corruption resistance than previously.

  These steps include:
  ☐ modifying the induction procedure for new staff to include a meeting with the General Manager where the importance of the Code of Conduct and the ICAC Act (in general terms) are addressed
  ☐ running workshops on the model Code of Conduct, conflicts of interest and other related topics for councillors and senior staff, with assistance from the Local Government Association
  ☐ taking the first steps in corruption risk planning for the medium term, and
  ☐ reviewing our Code of Conduct.

New sponsorship publication

Public sector organisations can face a number of corruption risks when engaging in sponsorship arrangements.

Principal among these is conflict of interest, such as differences between the goals of the agency and the sponsor, or the conflicting interests held by an agency staff member involved in the sponsorship.

Another major risk is that sponsorship could affect, or be perceived to affect, the way the agency operates, for example, by imposing conditions that limit, or seem to limit, the agency's ability to discharge its duties fully and impartially.

The new ICAC publication, *Sponsorship in the public sector: A guide to developing policies and procedures for both receiving and granting sponsorship*, will help organisations identify and manage the corruption risks associated with sponsorship activity.

Addressing these issues is particularly important because, in the face of increasing pressure for agencies to become more self-funding, sponsorship activity in the public sector has become both more prevalent and more complex.

Sponsorship in the public sector provides a definition of sponsorship and outlines 10 general principles to be considered when entering into individual sponsorship arrangements and when developing or updating

sponsorship policies and procedures. It then gives comprehensive and practical guides for creating or updating policies, procedures and practices when entering into sponsorship arrangements, be they granting or receiving sponsorship.

The publication does not prescribe a single approach to managing sponsorship, since the ICAC believes it is a matter for each public sector agency to determine the specific procedures it will adopt in respect to managing sponsorship.

Sponsorship in the public sector replaces *And Now a Word from our Sponsor*, which was published in 1995. The new publication can be downloaded from the ICAC website at **www.icac.nsw.gov.au** or by ordering a hard copy from the ICAC (see page 8 for contact details).

Houses of cards come tumbling down
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In particular, their scheme exploited the "20-year rule" — a provision for applicants with no acceptable formal building qualifications to be granted a building licence if they could prove 20 years of relevant previous experience in a wide range of building and construction works and subsequently pass a competency assessment. The scheme included creating false references and work histories for applicants.

An accredited interpreter, Faouzi Aboulhosn, on occasion either gave applicants the correct answers while pretending to interpret for them, or gave the assessor correct answers as though he was translating for the applicants.

The investigation also examined schemes to provide false qualifications to people not entitled to them. One scheme involved the issuing of 29 fraudulent testamurs for Diplomas of Structural Engineering (and one for a Diploma in Information Technology) by another RTO, the Australian College of Technology. The scheme was organised by the college's Academic Principal, Michael Megas, and his associate, Louis Allem. These false testamurs and academic records were used as part of

applications for building licences lodged with the OFT.

In another scheme, a clerk in the Student Administrative Services section of TAFE NSW had erased the names of genuine students on their academic records on TAFE's electronic Student Information System and replaced them with the names of building licence applicants who had either never completed the courses or had never even enrolled in them.

The ICAC's corruption prevention recommendations to WorkCover in respect of Operation Cassowary, and to the OFT, the Department of Education and Training, the Minister for Education and Training, VETAB and the BISC in respect of Operation Ambrosia, are very specific in addressing corruption risk management issues.

They also emphasise the need for new or enhanced corruption prevention policies and procedures and for education and training in corruption awareness and minimisation.

Both reports can be found on the ICAC website at **www.icac.nsw.gov.au**.

Corruption risks in planning

Corruption risks in NSW development approval processes, the discussion paper published by the ICAC in December last year, has generated significant interest among local and state government and planning organisations.

The ICAC distributed the discussion document to all NSW local councils, Members of Parliament, relevant state agencies, as well as individuals, professional associations and organisations in the planning sector. Close to 180 submissions have now been received by the ICAC and are currently being analysed in preparation for the final report, which will be published in the second half of 2006.

"The views expressed have been diverse, informative and well-considered," said the ICAC Commissioner, the Hon Jerrold Cripps QC. "People have been very generous in sharing their thoughts and experiences with us."

Corruption risks in NSW development approval processes outlines nine areas of corruption risk in the planning system, including the conflicting roles of councillors; conflicts of interest among council staff; council land disposal; the engagement of consultants and political donations.

The paper goes on to discuss possible reform options such as the establishment of advisory Independent Hearing and Assessment Panels (IHAPs); a requirement for councils to record how councillors vote on planning policy and development applications; the requirement for councils to give reasons for development approval decisions, and a review of rules governing political donations at state level to enhance transparency and accountability.

Publication of the discussion document is the first phase of a three-phase project to help minimise the risk of corruption in the NSW planning sector. It has been followed by an in-depth consultation phase with key stakeholders and will culminate in the publication of a position paper with a range of reform options for the NSW planning system as a whole.

The discussion paper can be downloaded from the ICAC website at **www.icac.nsw.gov.au**.

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dlg

Procurement of goods and services

Based on ongoing reviews of councils under the "Local Government Reform — Promoting Better Practice Program", the Department of Local Government has identified procurement as an area needing improvement for a number of NSW councils.

Procurement practices cover tendering, purchasing and disposal of goods and services. Recently, the Department issued advice to all councils on the topic which emphasises that council purchasing and disposal activities should be guided by the following key considerations:

- **Legal obligations** — These include the provisions of the *Local Government Act 1993* and Local Government (General) Regulation 2005.
- **Policy frameworks and guideline documents** — These include the *NSW Government Procurement Policy and Framework*, the *NSW Government Procurement Policy and Guidelines Paper*, *NSW Government Code of Practice for Procurement* and the *NSW Government Tendering Guidelines*, which are available from the NSW Department of Commerce website at http://www.dpws.nsw.gov.au/Government+Procurement.

Commonwealth Procurement Guidelines are available from the Department of Finance and Administration website at http://www.finance.gov.au/ctc/commonwealth_procurement_guide.html.

The Department of Local Government has recently issued draft tendering guidelines for NSW local government to all councils for consideration and comment. The draft guidelines are available at www.dlg.nsw.gov.au under Circulars 2006.

- **Value for money** — The core principle underpinning procurement at all levels of government is to achieve positive outcomes for the community. This includes obtaining value for public money and specifically involves a comparative analysis of all relevant costs and benefits of each proposal throughout the whole procurement cycle.
- **Probity** — Councils must conduct all tendering, procurement and business relationships with honesty, fairness and probity at all levels.
- **Accountability and transparency** — Councils must ensure that the process for awarding contracts is open, clear, fully documented and defensible.
- **Consistency** — This means that all conditions of tendering must

be the same for each tenderer on any particular tender and the evaluation of tenders must be based on the conditions of tendering and selection criteria as defined in the tender documents.

- **No conflict of interest** — A councillor or council employee with an actual or perceived conflict of interest must address that interest without delay in accordance with council's Code of Conduct and the Model Code of Conduct for NSW Councils.
- **No improper advantage** — Councils must not engage in any practices that aim to give a potential tenderer an advantage over others, nor engage in any form of collusive practice.
- **Risk management** — The identification and management of risks should be built into council's procurement processes. For further information, see *Taking the con out of contracting: guidelines for managing corruption risks in local government procurement and contract administration*, available from the ICAC website at www.icac.nsw.gov.au.
- **Openness to scrutiny** — Processes need to be based on clearly articulated and defensible evaluation criteria consistent with the legislative and policy framework. Actions must be robust and defensible to the public.

The Department's *Consultation Draft — Tendering Guidelines for NSW Local Government*, issued in January 2006, was developed in consultation with a range of relevant stakeholders, including the Local Government and Shires Associations of NSW and Local Government Managers Australia.

The aim of the Tendering Guidelines is to help councils apply clear policies, consistent procedures and effective risk management strategies in accordance with the *Local Government Act 1993*, Local Government (General) Regulation 2005 and other relevant legislation. The final Tendering Guidelines should be released in mid-2006.

For further information about local government procurement and the draft Tendering Guidelines, contact the Department of Local Government on 4428 4100 or email dlg@dlg.nsw.gov.au. The Department's website can also be viewed at **www.dlg.nsw.gov.au**.

**Garry Payne
Director General**

The Department of Local Government's aim is to foster a strong and sustainable local government sector. It does so by monitoring council operations, supporting the legislative framework for local government, advising on and developing policy and investigating and reviewing council performance.

NSW Ombudsman

"Whistling While They Work" project

The effective protection of whistleblowers and other internal witnesses to corruption, misconduct and maladministration is one of the great unsolved problems of public sector governance.

While whistleblowers are uniquely placed to expose serious problems in their workplaces, and are often the best source of information concerning illegality, corrupt conduct and misconduct within an organisation, they are also often subjected to severe reprisals.

In the search for a solution to the problem, 20 Australian bodies, including universities, leading integrity agencies and other public sector organisations, are collaborating in a major research project called "Whistling While They Work".

"Whistling While They Work" is the first national research project into the management and protection of whistleblowers in the Australian public sector and is believed to be the largest study of whistleblowing in the world.

Researchers will use the experience and perceptions of internal witnesses and managers to identify more appropriate strategies for preventing, reducing and addressing reprisals and other whistleblowing-related issues.

The project also aims to contribute to the early detection of workplace misconduct and reduce the political, organisational and human costs associated with whistleblowing by providing managers and integrity bodies with more effective strategies for managing key consequences.

In addition, its findings will inform reviews of existing legislation and identify the regulatory reforms needed to support good workplace practice.

The project, which is being managed by Griffith University, has attracted more than $1 million in funding from the Australian Research Council, the five other participating universities and the 14 industry partners, including most Ombudsman offices, the Independent Commission Against Corruption, the Queensland Crime and Misconduct Commission, the WA Crime and Corruption Commission and several other state public sector agencies.

"Whistling While They Work" was officially launched at a symposium in Canberra in July 2005, when leaders in internal witness management discussed whistleblower policies, legislation and regulation, best-practice internal witness management strategies and required reforms. The event was attended by more than 100 researchers, public sector representatives and whistleblower interest groups, and was a resounding success.

The research involves a mixture of symposia and structured workshops with agency representatives on key themes, comparative analyses of varying legislation, policies and institutional practices, and a study of organisational and individual attitudes and experiences.

The project also has an empirical research program, which includes agency surveys relating to integrity and practices and procedures; a survey of almost 20,000 employees; and case studies of agencies including interviews and questionnaires with internal witnesses, case handlers and managers. The project is due to conclude in 2007.

For more information and updates visit the project website: **www.griffith. edu.au/whistleblowing**.

Chris Wheeler
Deputy Ombudsman

In the interests of the NSW community, the NSW Ombudsman works to promote good conduct and fair decision making by all agencies and persons within its jurisdiction.

THE AUDIT OFFICE
OF NEW SOUTH WALES

Fraud control – what you need to do

Fraud control continues to be an area in which the Audit Office is assisting agencies. Effective fraud control has been a long-standing obligation, and in 1990 the NSW Premier's Department issued a specific requirement for agencies to develop a fraud control strategy that addressed the risks of both internal and external fraud.

Since that time the Audit Office has published:

- three performance audits on this topic (1993, 1998, 2004)
- a guide to better practice (1994, 2005)
- a self-audit kit (1998).

To help agencies make greater progress on this issue, in our 2005 report the Audit Office:

- recommended that fraud control should be a standing item on the agenda of all audit committees (or equivalent)
- set out a series of actions that each agency should take as a matter of priority to improve its fraud control environment.

So what other help is available on some of the key emerging challenges for fraud control that our report identified?

Employment screening is not an area of strength for most organisations except for child-related fields of employment. This can pose a significant weakness for an organisation's corruption prevention capability. Draft standards in this field are currently being developed by the Australian Prudential Regulation Authority (APRA) and also by Standards Australia, and it is becoming an emerging area for specialist service providers. The Corruption Prevention Network (www.corruptionprevention. net) has planned a "hot topic" session on this subject in late May 2006.

Agencies have also faced a significant, new and mandatory audit requirement since December 2004. Australian Auditing Standard 210 (AUS210) requires all external auditors to obtain a written representation from management (the CEO and/or CFO) that the organisation has systems to deal effectively with fraud risks.

How can agencies meet this requirement?

As the external auditor for the NSW public sector, the Audit Office considers that CEO signoff about fraud control (both for the purposes of AUS210 and to meet legislative requirements) should be supported by:

- regular testing of the organisation's control framework (such as that undertaken via internal audit and other compliance and assurance functions)
- the existence of a comprehensive fraud control strategy (such as one based on our updated guide to better practice)
- a process by which effective ongoing implementation of all aspects of the fraud control strategy is reviewed and monitored for all work areas across the organisation.
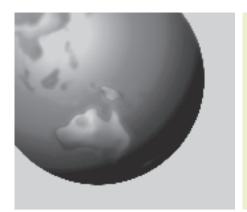
Feedback that we have received suggests that few agencies have effective arrangements in place to address this third point, and may thus not be well positioned to substantiate their signoff under AUS210. In response to this, we have developed another product to further assist agencies, a Fraud Control Improvement Kit. The pilot kit is currently being tested in a number of agencies prior to its general release in the near future.

All of our reports and guides to better practice are available from our website at **www.audit.nsw.gov.au**.

Stephen Horne
Assistant Auditor-General
Performance Audit

Contact Stephen on (02) 9275 7278 or email at stephen.horne@audit.nsw.gov.au.

The Audit Office's mission is to assist Parliament in improving the accountability and performance of the State. It does this by reporting its findings from auditing the financial reports of all the State's public sector bodies and through its performance audits on specific government activities. It also has a role in dealing with protected disclosures.

Inothernews

ICAC visits the Central West

In five days over May and June, the ICAC is visiting the Central West — Orange, Dubbo and Parkes — in the first of its 2006–2010 ICAC Rural and Regional Outreach Programs.

The Outreach Program, which has been running twice a year in different regions of New South Wales since 2001, has been highly successful in taking the ICAC to the country with a combination of corruption prevention training, workshops, resources, discussion sessions and senior executive management meetings.

It is designed for public officials from state agencies and local government councils in non-metropolitan areas of NSW and Local Aboriginal Land Councils in the area.

Workshop topics covered during the program include improving investigation skills and techniques; managing and reducing corruption risks, and protected disclosures and internal reporting.

In addition, the program includes workshops for Year 12 Legal Studies students and a series of visits to the management of councils and agencies to discuss matters of mutual interest and concern.

For further information, contact Sue Bolton, telephone (02) 8281 5828 or sbolton@icac.nsw.gov.au.

The next outreach visit will be to the New England region in late 2006.

CPN annual conference

The Corruption Prevention Network (CPN) will be holding its annual conference on Thursday, 14 September 2006. The venue is Waters Edge, Pier One, Hickson Road, Sydney. Continuing on the CPN's back-to-basics theme at the 2005 conference — which looked at the role of organisational culture in corruption prevention — the 2006 event will focus on the tools and techniques agencies can use to minimise corruption risks and strengthen procedures in their organisations.

The conference is open to all and those wishing to attend can email the CPN at cpn@corruptionprevention.net or write to:

Corruption Prevention Network
PO Box A2148
Sydney South NSW 1235

The CPN's website can be viewed at **www.corruptionprevention.net**.

Prosecutions resulting from ICAC investigations

Adam McCormick, the former Deputy Mayor of Rockdale City Council who was investigated by the ICAC in 2002 for allegedly soliciting bribes (with another councillor) from property developers, was prosecuted and found guilty late last year of two offences under section 249 of the Crimes Act 1900, and two offences of giving false or misleading evidence under section 87 of the Independent Commission Against Corruption Act 1988 (the ICAC Act). He was found guilty on 31 October 2005 and on 16 February 2006 was sentenced to five years imprisonment with a non-parole period of three years.

John Abi-Saab, a former Councillor of Strathfield Council who was one of the people investigated by the ICAC in connection with a plot to blackmail the Mayor of Strathfield Council in 2004, has been prosecuted and in January of this year was found guilty of two offences under section 112 of the ICAC Act. He was fined $2,000 for each count. The Director of Public Prosecutions is considering a number of other offences.

Arising from the same investigation, **Geoffrey Howe**, former editor of the *Inner Western Suburbs Courier*, was prosecuted by the Director of Public Prosecutions. He pleaded guilty to one count under section 112 of the ICAC Act (publish contrary to direction); two counts of making a false statement to a Commission officer under section 80 of the ICAC Act, and two counts of giving false or misleading evidence under section 87 of the ICAC Act. He was sentenced to six months suspended imprisonment and directed to enter into a two-year good behaviour bond.

Corruption prevention advice

The ICAC's corruption prevention officers work with public sector organisations to strengthen administrative systems and to raise awareness of potential corruption problems.

One of the key functions of the ICAC is to provide advice to the public sector about strategies to minimise corruption and maintain the integrity of public administration. In some situations the ICAC can also provide advice to private citizens about corruption prevention practices that should be followed by public sector organisations. The main benefits of contacting the ICAC for advice are that informal advice can be given promptly and the caller can be advised about relevant information and resources. Sometimes, more research and consultation than a phone call will allow is required and in such cases ICAC officers would discuss the most appropriate way to assist. This may involve writing to the ICAC.

In some circumstances, the ICAC may decline a request for advice. Advice requests are declined when the ICAC considers that the advice function would potentially conflict with its investigative function. The ICAC is unable to give advice that could be seen as authorising a particular course of action or provide advice that extends beyond probity and corruption prevention issues. The ICAC may only be able to provide generalised advice in cases where the request is complex or detailed and the ICAC cannot resource the request.

For corruption prevention advice, telephone the ICAC between 9.00am and 5.00pm on (02) 8281 5999 (or toll free on 1800 463 909 for callers outside Sydney).

About *Corruption Matters*

Corruption Matters is produced twice a year to raise awareness in the NSW public sector and the wider community about corruption-related issues. If you have any comments about the publication or would like to be put on the mailing list, please contact the Education and Public Affairs section, Independent Commission Against Corruption.