Senate Finance and Public Administration Committees

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Canberra ACT 2600

Submission: Inquiry into management and assurance of integrity by consulting services (Consulting Services)

Introduction

Thank you for the opportunity to make a submission to this Inquiry. Our submission is informed by research that we are currently undertaking on the health and health equity impacts arising from the growing use of consultancies in public sector roles. It has been driven in part by the imposition of a public service staffing cap, and a changing relationship between ministerial offices and senior public servants. This has undermined the skills and capacity of the public sector; a void that has been filled by private consultancy and professional services firms. Our research has identified a range of associated conflicts of interest (COI), and the specific Terms of Reference (TOR) that we address are:

(a) The management of conflicts of interest by consultants,

(d) The management of risks to public sector integrity,

(f) Any other related matters

TOR (a): The management of conflicts of interest by consultants

It is critical that consultants' actual and perceived COIs are properly managed. One conflict arises when private firms advise governments on taxation matters, while concurrently offering advice to corporate clients on ways to minimise their taxation liabilities. Such advice includes using variable tax rates across different jurisdictions through transfer pricing. This foregone taxation revenue would otherwise allow for greater health and social investment in the public interest. There are also clear COIs when private firms advise both industry sectors and governments in other ways which undermine the public interest and public health (Climate Home News, 2023); or donate to political parties.

The wide scope of services provided by large consultancies to governments and the business sector can also impose conflicts of interests between what are legally independent or investigative roles, such as auditing, and facilitative or consultancy roles. The global phenomenon of 'revolving doors' between staff from consultancy firms, government departments, corporate regulators or revenue authorities also result in actual or potential COIs.

TOR (d) The management of risks to public sector integrity

Public servants need to recognise the scope of COIs that can undermine assurances of integrity by consulting firms, including those leading to the de-skilling of public servants and loss of institutional memory. Governments and the public sector may become highly dependent on a few large consulting firms, which may not be appointed under a transparent process or demonstrate clear expertise. Even though consultancy fees are high, these firms are not responsible for failures associated with the implementation of their advice.

Our earlier research into health inequities (Musolino et al., 2019) highlighted the ways in which changes to the public sector from the adoption of New Public Management and managerialism by both state and national governments has reduced public sector capacity to respond to economic and social challenges, while 'hollowing out' state capacity in ways that are likely to have increased health inequities. This is primarily because as public sectors have been the subject of cuts, and consultants have been used more often, the public servants lose a focus on equity in policy making. The myriad of short-term projects contracted out to the private sector means a loss of continuity of policy consideration and the loss of intellectual capital in the public service concerning ways of making systematic, across the board policies to address the growth of inequities.

TOR (f): Any other related matters

In dealing with potential and actual COIs, the taxation ethicist George Rozvany, who has a wide-ranging professional background in the corporate world, argues that the following regulatory and taxation principles should apply to large consultancy firms:

Regulatory Principle 1: All jurisdictions should ensure that an accounting or professional services firm or organization does not provide both taxation and audit services to the public.

Regulatory Principle 2: All jurisdictions must ensure that there is sufficient competition in both taxation and audit services to provide an orderly market.

Taxation Principle 1: All jurisdictions should encourage ethical tax behaviors by way of economic incentives through discounts in the corporate tax rate or other real incentive measures.

Taxation Principle 2: All jurisdictions should ensure that appropriate punitive measures reflecting the fraudulent nature of aggressive taxation behaviors be implemented.

Taxation Principle 3: All expenses originating from a jurisdiction internationally characterized as a tax haven will be denied a tax deduction in the home jurisdiction.

It is important that the members of the Committee consider the work of tax ethicist George Rozvany (Fowler, 2017; West, 2016a, 2016b); as well as other experts on the practices of the consulting industry, including the ways in which they impact the public good, public health, and health equity (Mazzucato & Collington, 2023).

We would be pleased to provide any other assistance, or references to support this important Inquiry.

Yours sincerely

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