



ENGINEERS
AUSTRALIA

18 August 2015

Committee Secretariat
Senate Standing Committees on Economics
PO Box 6100
Parliament House
Canberra ACT 2600

economics.sen@aph.gov.au

– BY EMAIL –

Dear Sir/Madam,

Re: Submission to Senate Economics References Committee Inquiry into Foreign Bribery

Engineers Australia is the peak body for the engineering profession in Australia. With over 100,000 members across Australia, we represent all disciplines and branches of engineering. Engineers Australia is constituted by Royal Charter to advance the science and practice of engineering for the benefit of the community.

Engineers Australia welcomes the opportunity to provide a submission to the Senate Economics References Committee Inquiry into Foreign Bribery, and we commend the Committee for examining this important topic.

Bribery is widely acknowledged as one of the greatest challenges to international development and poverty relief. For organisations and individuals, bribery poses a criminal, financial and reputational risk. Ethical organisations lose work to unethical competitors. Bribery reduces quality, increase costs, and endangers lives. Increasing awareness of the damage caused by bribery has resulted in calls both at international and national level for effective action to be taken to prevent bribery.

Several international conventions have been passed which require signatory countries to criminalise bribery and to take effective steps to prevent and deal with it. Most countries have introduced or strengthened anti-bribery laws. All OECD countries have made it an offence for organisations and individuals from those countries to pay bribes to public officials in other countries.

However this is clearly not sufficient as many companies, including Australian organisations, have been caught up in bribery to win business in countries where this is an accepted part of

commercial activities. Some of Australia's largest and most prestigious organisations have been in the media with such scandals, affecting the reputation of Australia and its citizens.

Bribery costs billions of dollars globally and is a significant waste of resources, especially in developing countries. As engineers, we are deeply concerned that funds that should be used for developing essential infrastructure and productive resources can be siphoned off by unscrupulous practitioners. Millions of dollars of aid funds, including possible Australian Aid, are lost in this manner.

Engineers Australia recognises that bribery is a widespread phenomenon, raising serious moral and political concerns, undermining good governance, hindering economic development, and distorting competition. It jeopardises loyalties, erodes justice, undermines human rights, is an obstacle to the relief of poverty, destroys trust in institutions and interferes with the fair and efficient operation of markets. It is evident that now is the time to focus the efforts that are underway by world governments, engineering and construction organisations, and individuals to combat corruption and conduct business in an honest, transparent, and fair manner.

The recent failures of large organisations to combat bribery and corrupt behaviour indicate that a systematic process is required for organisations to ensure that all employees and related contractors understand their obligations. Bribery prevention should be treated in a similar manner to quality and safety management. A significant number of organisations internationally have responded to the changing legal and ethical environment by implementing anti-bribery management systems within their organisations, partly because it is the right thing to do, and partly to ensure that the organisation and its employees do not fall foul of anti-bribery laws. Nonetheless, it is not sufficient for an organisation to implement controls only within its own operations. Ethical organisations also need to take reasonable steps to ensure that their partners, agents, consultants, sub-contractors and suppliers adopt anti-bribery programmes.

Development of Anti bribery Standard ISO 37001

Standards Australia is a member of the International Standards Organisation (ISO) and a member of the technical committee (ISO TC 278) that is reviewing the development of the ISO 37001 Anti Bribery Standard. The drafting of ISO 37001 is not yet concluded and delegates from 22 countries are participating in the drafting exercise. The timetable currently anticipates publication of ISO 37001 in mid-2016. The content of ISO 37001 is still being debated by the ISO working group, and it will only get published if 75 percent of ISO member countries vote in favour of the Standard.

We understand that Standards Australia is among a number of national representative organisations that are 'abstaining' from voting in favour of the proposed standard. The technical standard is available for review but we understand that no targeted consultation has occurred with the engineering profession or the community in general. This is essential if

Standards Australia is to properly reflect the views of the Australian community voting for this Standard.

Engineers Australia considers that development of ISO 37001 would be an effective tool in helping to eliminate corruption in the industry. The standard would help to explain what organisations can do to address the risk of corrupt activities.

Role of the World Federation of Engineering Organisations (WFEO)

Engineers Australia is a member of the World Federation of Engineering Organisations (WFEO), which represents more than 90 nations and 20 million engineers. The WFEO Standing Committee on Anticorruption has developed a number of programs to eradicate corruption in engineering, especially procurement. It has developed training programs and a video 'Ethicana' to train young engineers in recognising advances for bribes and corrupt behaviour.

The Deputy Chair of this Committee, Dr. Neil Stansbury founded the Global Infrastructure Anti-Corruption centre (www.giaccentre.org) in the UK and drafted the British Standard on Anti Bribery BS10500. This was formalised in 2011 and is the basis of the new international standard ISO 37001.

At a meeting of WFEO's Anti-Corruption Standing Committee held in Paris on 10 December 2014, it was agreed that the Committee welcomes and supports the initiative of the ISO to develop an international anti-bribery management systems standard ISO 37001. WFEO has been appointed as a liaison organisation to the ISO project committee which is developing the standard, and is participating in the drafting meetings.

The Committee believes that ISO 37001 will be a vital tool which can help organisations demonstrate that they have implemented effective anti-bribery controls. The Committee believes that ISO 37001 will be most effective if it is published as a requirements standard which is capable of independent certification. Independent certification will enable third parties, including customers and suppliers, to confirm that the organisation has systematic processes in place to prevent corrupt behaviour and reduce the likelihood of bribery.

Structure of Standard ISO 37001

The draft standard takes account of internationally recognised good anti-bribery practice. It will be applicable to small, medium and large organisations in the public, private and voluntary sectors. The bribery risk facing an organisation varies according to factors such as the size of the organisation, the countries and sectors in which the organisation operates, and the nature, scale and complexity of the organisation's operations. Therefore, the draft standard specifies the implementation by the organisation of reasonable and proportionate policies, procedures and controls which are designed to prevent bribery taking place by, on behalf of, or against the organisation, and to detect and deal appropriately with any bribery which does take place.

These measures are likely to include standard international good practice anti-corruption requirements such as adopting an anti-bribery policy; appointing a compliance manager who is responsible for ensuring anti-bribery compliance; providing training and/or guidance to employees; undertaking periodic bribery risk assessments and appropriate due diligence on projects and on partners, agents, consultants, sub-contractors and suppliers; implementing financial and commercial controls to reduce bribery risk; and implementing confidential reporting and investigation procedures. This process is similar to that used for environmental management, safety management and quality management systems.

Using certification under ISO 37001 standard

Certification by organisations as complying with ISO 37001, similar to certification for quality (ISO 9001) and environmental management (ISO14001), would demonstrate that the organisation has implemented systematic processes led by the chair of the board and the chief executive, with a clear message that corrupt practices will not be tolerated.

If published as a requirements standard, ISO 37001 is likely to be useful to organisations in the following ways:

It will help provide assurance to the board and shareholders of an organisation that their organisation has implemented best practice anti-bribery controls.

A project developer or project funder may require the contractors, suppliers and consultants which are constructing a project to provide certification to ISO 37001 as evidence that they have implemented anti-bribery controls in their organisations.

Organisations may require their major sub-contractors, suppliers and consultants to provide evidence of certification to ISO 37001 as part of their supply chain approval process (on a similar basis to their requiring evidence of certification to ISO 9001 etc.).

Regulators and public procurement policies could also require companies to be certified against this standard before providing public services or products.

As many of the management processes that are required are similar to those already required for certification processes for quality, environmental management and safety, there would be little additional cost involved. Certifiers could review all systems at the same time with little incremental cost.

We hope that members of the Senate Economics References Committee will recognise the importance of the ISO 370001 standard and its systematic processes that are designed for any organisation to implement to reduce the likelihood of bribery and corruption.

Engineers Australia believe that ISO 37001, if published, will materially help reduce the risk of bribery by helping organisations implement anti-bribery controls. If public sector procurement bodies were to make independently certified compliance with ISO 37001 a pre-condition to obtaining work for major public sector contracts, then this could materially help reduce corruption in public sector contracting. This is ultimately in Australia's interests to ensure that productive resources are not re-directed and wasted.

On behalf of Engineers Australia I thank you for the opportunity to contribute to this inquiry. Should you require any further information on this submission or our positions more broadly, please do not hesitate to contact me directly, either by telephone on [REDACTED] or by email at [REDACTED]

Yours faithfully,


Brent Jackson
Executive General Manager
Public Affairs and Marketing