

18 December 2018

Documents for proactive release relating to the Inquiry into Public Sector Use of External Security Consultants

The State Services Commission (SSC) is releasing the following record of the internal documents the SSC holds directly relating to its conducting of the Inquiry into Public Sector use of external security consultants, other than evidence given or submissions made to the Inquiry; and documents withheld in full in accordance with the good reasons under the Official Information Act 1982 (OIA), or other good reasons.

Those reasons include, but are not limited to:

- section 9(2)(a), to protect the privacy of natural persons, including that of deceased natural persons
- section 9(2)(ba), to protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information—
 - (i) would be likely to prejudice the supply of similar information, or information from the same source, and it is in the public interest that such information should continue to be supplied; or
 - (ii) would be likely otherwise to damage the public interest;
- section 9(2)(b)(ii), to protect information where the making available of the information—
 - (i) would disclose a trade secret; or
 - (ii) would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information
- section 9(2)(h), to maintain legal professional privilege.

Information has also been withheld within the released documents in accordance with the good reasons under the OIA. Where information has been withheld, the reasons are indicated alongside the withholding with a reference to the relevant section in the OIA.

Trivial information and administrative information not directly to the scope of the inquiry has also not been released.


Note that individual agencies will be publishing their own information in relation to what they provided to the Inquiry.

Memorandum


To: Peter Hughes, State Services Commissioner
From: Andrew Royle, Chief Legal Officer
Date: 5 March 2018
Subject: Southern Response: Potential Inquiry

-
- 1 On 16 February 2018, you requested that I review material provided to you by Hon Megan Woods regarding the use of security consultants Thompson & Clark Intelligence Limited (TCIL) by Southern Response Limited, in accordance with our practice of undertaking a "first look review" before determining next steps.

9(2)(h) legal privilege



9(2)(h) legal privilege



Recommendations

7 It is recommended that you:

- | | | |
|---|--|----------|
| 1 | instruct me (or another inquirer) to undertake further investigations into the services provided by Thompson & Clark Investigations Limited to Southern Response Limited to determine whether or not any behaviour in breach of the Code of Conduct occurred. | Yes / No |
|---|--|----------|

Andrew Royle
Chief Legal Officer

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the State Services Commission



16 March 2018

Mr Doug Martin
Martin Jenkins
PO Box 5256
WELLINGTON 6140

Dear Doug

Appointment by the Commissioner and Terms of Reference

The Minister for Greater Christchurch Regeneration, Hon Dr Megan Woods, referred material to me on 16 February 2018 regarding the use by Southern Response Earthquake Services Limited (SRES) of external security consultants, Thompson & Clark Intelligence Limited (TCIL). My review of that material gave rise to concerns about activities undertaken by TCIL and potential breaches of the State Services' Code of Conduct.

Any unresolved matters relating to inappropriate use of security consultants, or actions by consultants, by State service agencies can have a damaging effect on public confidence in the Public sector. It is critical that public confidence is restored through full examination and reporting of these matters.

On 6 March 2018, I advised Minister Woods that I would undertake an investigation into the matters. Thank you for agreeing to undertake the Inquiry under my delegation.

Appointment

Pursuant to section 25(2) of the State Sector Act 1988, I appoint you to conduct an investigation in accordance with the following terms of reference. For the avoidance of doubt, this delegation enables you to use any statutory powers that are available to me for the purposes of this investigation, including without limitation the power to require production of information by any agency or party; and summon witnesses and receive evidence.

Investigation Terms of Reference

The Inquiry will identify and report on:

- 1 the circumstances of, and reasons for, the engagement of external security consultants by SRES including but not limited to TCIL; and
- 2 the nature and outcomes of the engagement of external security consultants by SRES.

Without limiting its scope, the Inquiry will specifically report on:

- 3 whether or not surveillance activities were undertaken by or on behalf of SRES and, if so:
 - 3.1. the nature of any such surveillance, either generally or relating to specific individuals;
 - 3.2. the extent to which SRES requested that surveillance, and/or received information relating to that surveillance;
 - 3.3. any actions undertaken as a result of information received;
- 4 any internal or external advice to SRES relating to or produced as a result of engaging external security consultants and/or any monitoring undertaken, including but not limited to advice relating to potential disclosure of the existence, nature or circumstances of any surveillance undertaken;
- 5 governance and reporting mechanisms (or lack thereof) relating to the engagement of security consultants; and
- 6 whether or not, and the extent to which, any matters identified by the Inquiry amounted to a breach of the State Services' Standards of Integrity and Conduct.

The Inquiry may also make recommendations in relation to any matter contained in its report.

The Inquiry will not consider, report on, or make recommendations relating to:

- 7 any individual entitlement relating to a specific insurance claimant; or
- 8 actions taken to resolve specific insurance claims, except insofar as those actions relate to the use of external security consultants; or
- 9 the general operational performance or governance arrangements of SRES.

Other matters

In the event that the Inquiry identifies any matters of concern, other than those set out above, the Inquiry should report these matters by way of separate and brief notification to me, for separate attention. This separate notification could include, for example, any matter of concern relating to the health and safety environment in Public sector agencies in Canterbury; or the use of security consultants by any other Public sector agencies.

I intend to publish your report after it is finalised. Please prepare your report in a manner suitable for publication.

I look forward to receiving your report.

Yours sincerely



Peter Hughes
State Services Commissioner



16 March 2018

Mr Doug Martin
Martin Jenkins
PO Box 5256
WELLINGTON 6140

Dear Doug

Consideration of possible expansion of the Inquiry Terms of Reference

Further to my letter of today's date appointing you to conduct an investigation into the engagement of external security consultants by Southern Response Earthquake Services Limited, I would like you to consider a further matter relating to the Ministry of Business, Innovation, and Employment (MBIE).

In light of current allegations relating to MBIE's use of external security consultants, including those allegations raised by Greenpeace Aotearoa New Zealand, I would like you to provide me with some advice on whether or not the formal inquiry should be expanded to include those matters.

I gave consideration to delaying the release of the terms of reference until I am in a position to respond to Dr Norman's request. However, in the interest of public confidence it is important that the inquiry is not delayed unduly. The matters already at issue in that inquiry need to be examined promptly.

I look forward to receiving your advice on this additional matter.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Peter Hughes'.

Peter Hughes
State Services Commissioner

Dallas Welch [SSC]

From: Lisa Ngaia [SSC]
Sent: Friday, 16 March 2018 12:24 PM
To: Dallas Welch [SSC]
Subject: FW: Supplier Query [IN-CONFIDENCE:RELEASE EXTERNAL]
Attachments: Thompson & Clark Services [UNCLASSIFIED]

[IN-CONFIDENCE]

Hi Dallas

Here is the email that you were after.

Thanks
Lisa

Lisa Ngaia

Senior Executive Assistant

State Services Commission | *Te Komihana O Ngā Tari Kāwanatanga*

9(2)(a) privacy

Level 10, 2 The Terrace, Wellington 6140 | www.ssc.govt.nz | newzealand.govt.nz

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We lead, we serve.

From: Fleur D'souza [mailto:9(2)(a) privacy]
Sent: Tuesday, 13 March 2018 2:16 PM
To: Chappie Te Kani [SSC] 9(2)(a) privacy
Cc: Adrienne Meikle 9(2)(a) privacy; John Iviil 9(2)(a) privacy; Angela Xygalas 9(2)(a) privacy; Graham Pomeroy 9(2)(a) privacy
Subject: Supplier Query [IN-CONFIDENCE:RELEASE EXTERNAL]

Hi Chappie, below is the list of government clients that TCIL provided us today. It would be much appreciated if you could treat with the appropriate sensitivity and do not release it externally without consulting us first.

Also attached is a statement that TCIL released to all its customers this morning.

As discussed there have been no contracts entered into under the Protective Security Requirements Consultancy Services subpanel (as it was only set up in December 2017) and any current or previous arrangements would be best discussed as between the contracting agency and TCIL.

List of government clients from TCIL

- AgResearch Limited

Entities out of scope of the Inquiry

- Department of Conservation (current)
- MFAT (not current)
- Ministry of Health – current
- NZ Institute for Plant and Food Research Limited
- NIWA – current
- Otakaro Limited

Entities out of scope of the Inquiry

- Te Papa (not current)
- Entity out of scope of the Inquiry

Regards
Fleur

Fleur D'Souza
MANAGER SUPPLIER RELATIONSHIP MANAGEMENT

New Zealand Government Procurement, Market Services
Ministry of Business, Innovation & Employment

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15 Stout Street, Wellington 6011 | PO Box 1473, Wellington 6140, New Zealand |
www.procurement.govt.nz



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the State Services Commission

Dallas Welch [SSC]

From: Gavin Clark 9(2)(a) privacy
Sent: Tuesday, 13 March 2018 12:10 PM
To: Fleur D'souza
Cc: Nick Thompson
Subject: Thompson & Clark Services [UNCLASSIFIED]

Dear Fleur,

In view of recent comments in the media please accept this email as confirmation of Thompson & Clark's position.

Thompson & Clark only operate within the rules and regulations of the security industry and within the law and follow the Governments Protective Security Requirements (PSR) which outlines the Government's expectations for managing personnel, physical and information security, reference: www.protectivesecurity.govt.nz/home/directive-on-the-security-of-government-business.

Thompson & Clark's purpose is to keep clients staff safe from those who oppose their clients lawful activities, services include:

- Continued open source threat monitoring to help understand the risks clients face from those who threaten their staffs safety.
- Threat assessments around specific threats.
- The implementation of PSR PHYSEC security requirements, including drafting security policy, physical standard operating procedures and alert levels.
- Implementing an auditable physical security standard for all sites to bench mark security standards nationally.
- The physical security review of sites where staff have been the victims of threats and intimidation.

Thompson & Clark do not engage in "spying," as reported in the media.

Thompson & Clark will co-operate fully with any State Services enquiry and strongly refute the allegations made within the media.

I trust that this enables MBIE to have a full understanding of Thompson & Clarks services and methodology and enables us to continue to have an ongoing working relationship.

Kind Regards Gavin Clark

Gavin Clark

/ MOBILE
/ PHONE
/ FAX
/ POSTAL
/ WEBSITE

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+64 9 361 3260
PO Box 301775, Albany, NSMC 0752, New Zealand
www.tcil.co.nz

THOMPSON + CLARK
INVESTIGATIONS • PROTECTIVE SECURITY

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From: Fleur D'souza [mailto:9(2)(a) privacy]
Sent: Tuesday, 13 March 2018 11:45 AM
To: Gavin Clark 9(2)(a) privacy
Subject: Contact [UNCLASSIFIED]

Fleur D'Souza
MANAGER SUPPLIER RELATIONSHIP MANAGEMENT

New Zealand Government Procurement, Market Services
Ministry of Business, Innovation & Employment

9(2)(a) privacy

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Stephen Moore [SSC]

From: Kim O'Keeffe [SSC] on behalf of Debbie Power [SSC]
Sent: Friday, 16 March 2018 2:05 PM
To: @SSC All Staff [SSC]
Subject: Southern Response: inquiry details have just been announced
Attachments: 16 Mar 18 - Media statement announcing ToR and investigator.docx; 2318358
_Terms of Reference - 16 March 2018 (2).docx

[UNCLASSIFIED]

Hi all

Please find below an email that has just been sent to the CE's for your information.

Cheers
Debbie

Debbie Power

Deputy State Services Commissioner and Chief Executive | State Services Commission

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2 The Terrace, Wellington 6140 | www.ssc.govt.nz | newzealand.govt.nz

*We lead the public sector in the service of our nation.
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Hi all

As you may recall, on 7 March we announced that we would be investigating whether a government agency and one of its contractors may have breached the State Services Standards of Integrity and Conduct. At this time we said the inquiry would focus on Southern Response, a government-owned company responsible for settling claims by AMI policyholders for Canterbury earthquake damage, and a contractor it hired.

The inquiry details have just been announced.

Peter has asked Doug Martin, from Martin Jenkins, to lead this investigation. As most of you will know, Mr Martin is one of New Zealand's most experienced and respected advisers on approaches to improving the performance of public-sector agencies in New Zealand and a former Deputy State Services Commissioner.

Separate to the inquiry, SSC is also looking more broadly at the use of private investigators and whether the public can have trust and confidence that their way of working is consistent with the State Services Standards of Integrity and Code of Conduct.

In the meantime, I am asking that you review your use of external security consultants to assure yourself that the way in which you have contracted for those services, and the manner in which the consultants operate in providing those services to you, is consistent with the code of conduct. Can you please let your Assistant Commissioners know the outcome including any nil returns by Thursday 29 March.

The media statement and Terms of Reference is attached for your information.

Cheers
Debbie

Debbie Power

Deputy State Services Commissioner and Chief Executive | State Services Commission

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TERMS OF REFERENCE



Revised Terms of Reference for Inquiry into the use of external security consultants 27 March 2018

The Inquiry will identify and report on:

1. the circumstances of, and reasons for, the engagement of external security consultants by Southern Response Earthquake Services Limited (SRES) and the Ministry of Business, Innovation, and Employment (MBIE) including but not limited to Thompson & Clark Investigations Limited (TCIL);
2. the nature and outcomes of the engagement of external security consultants by SRES and MBIE;

Without limiting its scope, the Inquiry will specifically report on:

3. whether or not surveillance activities were undertaken by or on behalf of SRES or MBIE and, if so:
 - a. the nature of any such surveillance, either generally or relating to specific individuals;
 - b. the extent to which SRES or MBIE requested that surveillance, and/or received information relating to that surveillance;
 - c. any actions undertaken as a result of information received;
4. any internal or external advice to SRES or MBIE relating to or produced as a result of engaging external security consultants and/or any monitoring undertaken, including but not limited to advice relating to potential disclosure of the existence, nature or circumstances of any surveillance undertaken;
5. governance and reporting mechanisms (or lack thereof) relating to the engagement of security consultants; and
6. whether or not, and the extent to which, any matters identified by the Inquiry amounted to a breach of the State Services' Standards of Integrity and Conduct.

The Inquiry may also make recommendations in relation to any matter contained in its report.

The Inquiry will not consider, report on, or make recommendations relating to:

7. any individual entitlement relating to a specific insurance claimant; or
8. actions taken to resolve specific insurance claims, except insofar as those actions relate to the use of external security consultants; or
9. the general operational performance or governance arrangements of SRES or MBIE.

Stephen Moore [SSC]

From: Iain McKenzie [SSC]
Sent: Monday, 28 May 2018 1:11 PM
To: Mereama Chase [SSC]; Geoff Short [SSC]; Chappie Te Kani [SSC]
Cc: Tiana Tipiwai [SSC]
Subject: RE: Use of Security Consultants
Attachments: 2319473_Use of Security consultants.xlsx; 2319473_Use of Security consultants.nrl
Attachment not included - final summary of engagements is provided in the Inquiry report

Hi

I've updated this document with new information as it's come in, MoE was the last entry I have.

From: Mereama Chase [SSC]
Sent: Monday, 28 May 2018 12:01 PM
To: Geoff Short [SSC] ; Chappie Te Kani [SSC]
Cc: Tiana Tipiwai [SSC] ; Iain McKenzie [SSC]
Subject: Use of Security Consultants

Kia ora

Liz looks like she's picked up this work for Catherine. We were waiting on responses from seven agencies (Corrections, MoJ, Customs, SFO, MFAT, HNZC, Education). Have you seen anything come through?

Am assuming there was no further discussion with the seven agencies that confirmed they do use security consultants – consistent with the code of conduct and appropriate given their role.

Cheers
Mereama

From: Liz Sinclair [SSC]
Sent: Monday, 28 May 2018 10:33 AM
To: Mereama Chase [SSC] 9(2)(a) privacy
Subject: RE: UPDATE Use of Security Consultants

Thanks Mereama very much. And Chris has now also sent me the detailed summary from a couple of weeks ago. Just wondering if there has been any update from the agencies who hadn't replied eg MoJ, MFAT? Many thanks Liz

From: Mereama Chase [SSC]
Sent: Monday, 28 May 2018 9:45 AM
To: Liz Sinclair [SSC] 9(2)(a) privacy
Subject: FW: UPDATE Use of Security Consultants

From: Mereama Chase [SSC]
Sent: Monday, 28 May 2018 9:41 AM
To: Liz Sinclair [SSC] 9(2)(a) privacy
Subject: FW: UPDATE Use of Security Consultants

Kia ora Liz

Great to have you back on board! Here's the summary, let me know if you need to see the detailed responses that sit underneath this.

Mereama Chase

Acting Director | State Services Commission – Te Komihana o ngā Tari Kāwanatanga

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From: Mereama Chase [SSC]

Sent: Wednesday, 18 April 2018 10:02 AM

To: Debbie Power [SSC] 9(2)(a) privacy

Cc: Dallas Welch [SSC] 9(2)(a) privacy; Geoff Short [SSC] 9(2)(a) privacy; Chappie Te Kani

[SSC] 9(2)(a) privacy; Erik Koed 9(2)(a) privacy; Iain McKenzie

[SSC] 9(2)(a) privacy; Napoleon Rodulfo [SSC] 9(2)(a) privacy; Joshua Tendeter

[SSC] 9(2)(a) privacy

Subject: UPDATE Use of Security Consultants

Kia ora Debbie

Just wanted to give you further update on agencies use of security consultants.

So far 26 agencies have come back to us:

- 19 agencies do not use external security consultants (MoT, MCH, ERO, MPP, MFW, TPK, SIA, NZSIS, GCSB, MoD, NZDF, CLO, Stat NZ, OT, MPI, Treasury, Police, MfE).
- 7 agencies do use external security consultants (LINZ, DoC, IRD, ACC, MoH, MSD and DIA) and are confident the manner which these suppliers have been engaged is consistent with the code of conduct and is appropriate for their specific agency roles.
- We've already highlighted some of the ways agencies use these suppliers below. New additions include MSD: Legal matters, historic claims and social sector accreditation and MOH: Training and mentoring services for their staff in dealing with clients.

We are awaiting responses from 7 agencies (Corrections, MoJ, Customs, SFO, MFAT, HNZA, Education). ACS will follow up again.

Mereama Chase

Acting Director | State Services Commission – Te Komihana o ngā Tari Kāwanatanga

9(2)(a) privacy

From: Mereama Chase [SSC]

Sent: Tuesday, 3 April 2018 12:03 PM

To: Debbie Power [SSC] 9(2)(a) privacy

Cc: Dallas Welch [SSC] 9(2)(a) privacy; Geoff Short [SSC] 9(2)(a) privacy; Chappie Te Kani

[SSC] 9(2)(a) privacy; Erik Koed 9(2)(a) privacy

Subject: Use of Security Consultants

[IN-CONFIDENCE]

Kia ora Debbie

UPDATE: Use of Security Consultants

On 16 March 2018, you wrote to all the Public Service CEs, two Non-Public Service Departments (NZDF and NZ Police) and two Crown Entities (ACC and HNZC) and asked that they review their use of external security consultants to assure themselves that the way in which they have contracted for those services, and the manner in which the consultants operate in providing those services, is consistent with the Code of Conduct.

Responses were due back on Thursday 29 March. So far we have received 18 responses. We are yet to hear back from 15 agencies, Geoff and Chappie are following up.

Of the 18 agencies who have provided a response on their use of security consultants, 13 of the 18 have informed us that they do not use external security consultants (MoT, MCH, ERO, MPP, MFW, TPK, SIA, NZSIS, GCSB, MoD, NZDF, CLO, Stat NZ).

Of the remainder (LINZ, DoC, IRD, ACC and DIA) engage suppliers in the provision of security and investigative related services, they have responded that they are confident the manner which these suppliers have been engaged is consistent with the Code of Conduct and is appropriate for their specific agency roles.

The following are examples of the types of uses the four above agencies engage suppliers of these services:

- DoC: Security and investigative services in response to threats, intimidation and social media vilification against the Department and its staff. Event based security, security assessments of staff and premises, social media monitoring and in drafting security policy and physical standard operating procedures.
- IRD: Licenced process servers, debt collection, location of customers, on-site security presence, security monitoring and maintenance on IR premises.
- ACC: Visual surveillance, static observation, obtaining witness statements, investigation assistance including interviewing.
- DIA: ICT security and physical security.
- LINZ: Locating and serving papers to individuals.

We'll keep you updated on the narrative as more responses come in.

Nga mihi
Mereama

Mereama Chase

Acting Director | System & Agency Performance Group | PIF, CI & Performance Analysis Teams
State Services Commission – *Te Komihana o ngā Tari Kāwanatanga*

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Dallas Welch [SSC]

From: Mereama Chase [SSC]
Sent: Monday, 28 May 2018 3:28 PM
To: Dallas Welch [SSC]; Geoff Short [SSC]; Heather Baggott; Chappie Te Kani [SSC]; Erik Koed [SSC]
Cc: Iain McKenzie [SSC]; Joshua Tendeter [SSC]; Napoleon Rodulfo [SSC]; Tiana Tipiwai [SSC]
Subject: UPDATE Use of Security Consultants 28 May
Attachments: 2319473_Use of Security consultants.xlsx; 2319473_Use of Security consultants.nrl

Kia ora

Here's the latest update on agencies' use of security consultants. Yet to hear from five agencies (MoJ, SFO, Customs, MFAT and HNZA). Chappie can you follow up, Dallas for MFAT. Liz Sinclair has picked up this work on behalf of Catherine so she may have some further questions. Iain's spreadsheet of responses also attached fyi.

Cheers
Mereama

UPDATE as at 28 May

So far 28 agencies have come back to us:

- 19 agencies do not use external security consultants (MoT, MCH, ERO, MPP, MFW, TPK, SIA, NZSIS, GCSB, MoD, NZDF, CLO, Stat NZ, OT, MPI, Treasury, Police, MfE, MoE).
- 9 agencies do use external security consultants (LINZ, DoC, IRD, ACC, MoH, MSD, DIA, DPMC, Corrections) and are confident the manner which these suppliers have been engaged is consistent with the code of conduct and is appropriate for their specific agency roles.

A summary of the ways agencies use these suppliers is set out below:

- LINZ: Locating and serving papers to individuals.
- DoC: Security and investigative services in response to threats, intimidation and social media vilification against the Department and its staff. Event based security, security assessments of staff and premises, social media monitoring and in drafting security policy and physical standard operating procedures.
- IRD: Licenced process servers, debt collection, location of customers, on-site security presence, security monitoring and maintenance on IR premises.
- ACC: Visual surveillance, static observation, obtaining witness statements, investigation assistance including interviewing.
- MoH: Training and mentoring services for their staff in dealing with clients.
- MSD: Legal matters, historic claims and social sector accreditation.
- DIA: ICT security and physical security.
- DPMC: Physical/ premises security as well as IT security/ testing.
- Corrections: Contracted service providers of physical security.

Mereama Chase
9(2)(a) privacy

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Subject: UPDATE Use of Security Consultants

Kia ora Debbie

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- 7 agencies do use external security consultants (LINZ, DoC, IRD, ACC, MoH, MSD and DIA) and are confident the manner which these suppliers have been engaged is consistent with the code of conduct and is appropriate for their specific agency roles.
- We've already highlighted some of the ways agencies use these suppliers below. New additions include MSD: Legal matters, historic claims and social sector accreditation and MOH: Training and mentoring services for their staff in dealing with clients.

We are awaiting responses from 7 agencies (Corrections, MoJ, Customs, SFO, MFAT, HNZC, Education). ACs will follow up again.

Mereama Chase

Acting Director | State Services Commission – Te Komihana o ngā Tari Kāwanatanga
9(2)(a) privacy

From: Mereama Chase [SSC]
Sent: Tuesday, 3 April 2018 12:03 PM
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Subject: Use of Security Consultants

[IN-CONFIDENCE]

Kia ora Debbie

UPDATE: Use of Security Consultants

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Of the remainder (LINZ, DoC, IRD, ACC and DIA) engage suppliers in the provision of security and investigative related services, they have responded that they are confident the manner which these suppliers have been engaged is consistent with the Code of Conduct and is appropriate for their specific agency roles.

The following are examples of the types of uses the four above agencies engage suppliers of these services:

- DoC: Security and investigative services in response to threats, intimidation and social media vilification against the Department and its staff. Event based security, security assessments of staff and premises, social media monitoring and in drafting security policy and physical standard operating procedures.
- IRD: Licenced process servers, debt collection, location of customers, on-site security presence, security monitoring and maintenance on IR premises.
- ACC: Visual surveillance, static observation, obtaining witness statements, investigation assistance including interviewing.
- DIA: ICT security and physical security.
- LINZ: Locating and serving papers to individuals.

We'll keep you updated on the narrative as more responses come in.

Nga mihi
Mereama

Mereama Chase

Acting Director | System & Agency Performance Group | PIF, CI & Performance Analysis Teams

State Services Commission – *Te Komihana o ngā Tari Kāwanatanga*

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Donna Fowler [SSC]

From: Sarah Baddeley 9(2)(a) privacy
Sent: Friday, 8 June 2018 10:15 AM
To: Andrew Royle [SSC]
Cc: Doug Martin
Subject: RE: SRES update

Hi Andrew

I have discussed your request with Doug who is currently in transit back to Wellington.

Doug has confirmed the view I anticipated with you that he has no concerns arising from the Inquiry related to reappointments.

I also include below some relevant comments from the draft findings that may be useful in your advice:

Governance and management of the relationship with TCIL by Southern Response

- The process of engaging TCIL, while not exemplary, gave rise to no concerns regarding the use of the Company's resources nor the Company's overall intent.
- Southern Response's Board and management were appropriately informed of the decision to use TCIL, and they communicated to the relevant SRES employees that any surveillance activities needed to be carefully managed. The Board sought and received assurances that any surveillance activity would be lawful and proportionate.


General findings


- The Inquiry found that Southern Response was able to demonstrate a mature governance approach with a robust set of policies and procedures in place to govern decision making relating to the management of health and safety risks and the engaging of security consultants. This includes adequate communication of the expectations the Company had of the application of the State Services Code of Conduct to its employees.

Sarah Baddeley
Manager, Consulting

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 [MartinJenkins](#)

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**MARTIN
JENKINS**



T +64 9 915 1360

Level 6, The Chancery Building, 50 Kitchener Street, Auckland 1010
PO Box 7551, Wellesley Street, Auckland 1141, New Zealand

martinjenkins.co.nz

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From: Andrew Royle [SSC] [mailto:9(2)(a) privacy]
Sent: Friday, 8 June 2018 9:28 a.m.
To: Doug Martin
Cc: Sarah Baddeley
Subject: SRES update

[UNCLASSIFIED]

Kia ora korua

Apologies for the radio silence in the last 24 hours. As discussed with Doug yesterday, we have been advised about some activity at MPI that is likely to require your attention. Thank you for your indication Doug that you will continue to be available!

I'll be able to brief you further later today.

Sarah – I also have a set of comments on the current combined draft that I will get over to you by close of play today.

Finally, as discussed earlier in the week, Minister Woods also has to consider reappointments to the SRES Board this month. She has been holding off to see the outcome of the report but that is now likely to be delayed. From my review of the material I have seen nothing that would impact on that decision by her. Can you confirm that you have seen no behaviour on the part of current Board members that Minister Woods should be aware of in making those reappointments? I'll do a short paper for her confirming our advice.

Andrew

Andrew Royle
Chief Legal Officer
State Services Commission
9(2)(a) privacy

Fax: +64 4 495 6686

9(2)(a) privacy

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19 June 2018

Doug Martin
Martin Jenkins
PO Box 5256
Wellington 6140

Dear Doug

Expansion to existing Inquiry: Nature and extent of TCIL's engagement with the State services

As discussed last week, further issues have been brought to my attention relating to contact between State services employees and representatives of Thompson and Clark Investigations Limited (TCIL).

You are currently undertaking an inquiry on behalf of the Commissioner into the matters set out in your terms of reference dated 27 March 2018.

I am concerned to ensure that the most recent information is properly investigated in its own right, and also that any implications of that review for the conclusions of your existing inquiry are able to be properly taken into account.

In terms the report I have sought from you, your terms of reference are therefore extended to enable you to examine and report on the nature and extent of engagement between State services agency employees and representatives of TCIL. Without limiting the scope of that inquiry, the matters that are detailed in the confidential Appendix to this letter specifically require your attention, in terms of reporting to me.

For the avoidance of doubt, you are authorised to use the Commissioner's statutory investigatory powers for the purposes of this expanded inquiry.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Debbie Power'.

Debbie Power
Deputy State Services Commissioner



SSC REPORT

[SENSITIVE]

SSC Inquiry into the Use of External Security Consultants

Date: 20 June 2018

Report No: SSC2018/668

Contact: Andrew Royle, Chief Legal Officer

Telephone: 9(2)(a) privacy

	Action Sought	Deadline
Hon Dr Megan Woods Minister for Greater Christchurch Regeneration	Note the advice	ASAP
Hon Chris Hipkins Minister of State Services	Copy for your information	

Enclosure: No

Executive Summary

- 1 This briefing provides you with information about the Inquiry established by the State Services Commissioner relating to the surveillance activities of Thompson and Clark Investigations Limited (TCIL) on behalf of Southern Response Earthquake Services Limited (SRES).
- 2 Mr Martin's advice is that he has not identified, in the course of his inquiry, any information that would suggest that short-term reappointment is inappropriate.

Minister's Office Comments

Comments:

Date returned to SSC:

7.9.2018

Recommended Action

We recommend that you:

- a **Note** the content of this briefing;
- b **Agree** that the State Services Commission release this briefing alongside the standard public release of documentation associated with the administration of the Inquiry that will occur when the report is released.

Agree/disagree.



Hon Dr Megan Woods
Minister for Greater Christchurch Regeneration

Proactively released by
the State Services Commission

SSC Report: SSC Inquiry into the Use of External Security Consultants – SRES Board Members

Context

- 3 On 16 March 2018 the State Services Commissioner announced an inquiry to investigate the circumstances of the use by SRES of external security consultants, particularly focussed on the activities of TCIL.
- 4 The Commissioner was concerned about potential breaches of the State Service Code of Conduct, by either or both SRES staff or the contractors acting on their behalf. Maintenance of public confidence in the activities of agencies in the State services, and the work that contractors undertake at their direction, are matters that fall within the Commissioner's mandate. The Commissioner's view was that an inquiry utilising his statutory inquiry powers was required in order to fully explore the issues that had presented at SRES.
- 5 At the same time, the Commissioner stated publicly that he would look more broadly at the use of private investigators by State services agencies to assure myself that they are being used in ways that are consistent with the requirements of the State Services Code of Conduct and that the behaviour of the investigators themselves also meets those standards.
- 6 On 27 March 2018 the Commissioner expanded the investigation to look into the engagement of external security consultants by the Ministry of Business, Innovation and Employment (MBIE).
- 7 Mr Doug Martin of Martin Jenkins was engaged to lead the inquiry.
- 8 Mr Martin's inquiries, in terms of responding to the original terms of reference, are now largely completed and the reports are being finalised.
- 9 In the last two weeks, further issues were identified at the Ministry of Primary Industries and New Zealand Security Intelligence Service (NZSIS) which will require attention from the investigation. The further expansion of the terms of reference occurred on 19 June 2018. This will, unfortunately, also delay a report on the initial two aspects of this matter.
- 10 This report therefore provides you with a progress report, focussed particularly on the Board of SRES (as we understand that you have pending reappointment decisions to make).

Key Findings – SRES Board Members

- 11 Mr Martin's advice is that he has not identified, in the course of his inquiry, any information that would suggest that short-term reappointment is inappropriate. Specifically:
 - 11.1 Southern Response's Board and management were appropriately informed of the decision to engage TCIL, and they communicated to the relevant SRES employees that any surveillance activities needed to be carefully managed. The Board sought and received assurances about the scope of any surveillance activity.
 - 11.2 Southern Response was able to demonstrate to the Inquiry a mature governance approach with a robust set of policies and procedures in place to govern decision making relating to the management of health and safety risks, and the engaging of security consultants. This includes adequate communication of the

expectations the Company had of the application of the State Services Code of Conduct.

- 12 In short, while the Board is ultimately responsible for all activities within the agency, issues that have been identified by the Inquiry in the engagement of TCIL and its subsequent activities are not matters of direct board accountability or do not suggest inappropriate Board member behaviour.
- 13 SSC officials are available to provide further information on any aspect of the Inquiry.

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Donna Fowler [SSC]

From: Sarah Baddeley 9(2)(a) privacy
Sent: Thursday, 21 June 2018 1:50 PM
To: 9(2)(a) privacy; CLEMENT, Michael; 9(2)(a) privacy
Cc: Doug Martin; Andrew Royle [SSC]; Simon Mount; Teresa Williams
Subject: SSC Inquiry into the use of security consultants, Thompson and Clark Investigations Limited - SFO and NZ Police

Please find below sent on behalf of Doug Martin.

Dear colleagues

As you are aware, I have been appointed by the State Services Commissioner to undertake an Inquiry into the use of Thompson and Clark Investigations Limited by agencies in the state sector.

The Inquiry is being undertaken using the Commissioner's functions and powers under the State Sector Act 1988. The Act permits the Commissioner to delegate the extensive powers of inquiry, which include the power to require the production of any records, files or other information, to require government employees to answer questions, and to enter government premises.

I am aware that the initial internal investigation by the Ministry for Primary Industries has revealed serious concerns potentially related to corruption sufficient to warrant, in MPI's view, a formal complaint to either the Serious Fraud Office or the New Zealand Police.

As part of the Inquiry process, if we were to find evidence of breaches of law, then the Inquiry would refer that evidence relating to any individuals, or the agencies, to appropriate regulatory authorities. This includes the Serious Fraud Office and the NZ Police and would enable further investigation into possible breaches of the law.

As such, I see no reason for MPI to delay referring their concerns to either the NZ Police or the Serious Fraud Office ahead of the Inquiry considering such matters. 6(c) maintenance of the law

6(c) maintenance of the law

I trust this clarifies my thought on the matter.

Regards

Doug Martin.

Sarah Baddeley
Manager, Consulting

9(2)(a) privacy

T 09 915 1360

9(2)(a) privacy

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**MARTIN
JENKINS**



T +64 9 915 1360

Level 6, The Chancery Building, 50 Kitchener Street, Auckland 1010
PO Box 7551, Wellesley Street, Auckland 1141, New Zealand

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AGENDA

SSC Inquiry Phase Two: Discussion

9.30am
SSC Offices, Wellington
11 July 2018

- 1 Insights to date
 - a MPI/SIS
- 2 Terms of reference amendment/implications
 - a The merits of specific vs wide
- 3 Approach to the different entities – propose four different categories (and methods):
 - a Core to review – those identified to date
 - i SRES, MBIE, MPI, SIS
 - b Identified through review – those identified through review of those in category 1
 - i DOC, AgResearch, MOH, NZTA, Customs
 - c Self-evaluated
 - i All other entities (see attached)
 - d Other – for discussion
 - i NZ Police
 - ii NZDF
- 4 Approach to referral to other regulatory authorities
 - a Update from SFO discussion
 - b Privacy Commissioner
 - c Ombudsman, PSPLA, Archives etcInvestigation method – process discussions
 - d Oath/Summons
 - e Historic/no longer state servants
 - f Recording interviews
- 5 Any other issues

