

The Treasury

Budget 2011 Information Release

Release Document

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- [1] 9(2)(a) - to protect the privacy of natural persons, including deceased people
- [2] 9(2)(f)(iv) - to maintain the current constitutional conventions protecting the confidentiality of advice tendered by ministers and officials
- [3] 9(2)(g)(i) - to maintain the effective conduct of public affairs through the free and frank expression of opinions
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- [6] 9(2)(j) - to enable the Crown to negotiate without disadvantage or prejudice
- [7] 6(a) - to prevent prejudice to the security or defence of New Zealand or the international relations of the government
- [8] 9(2)(h) - to maintain legal professional privilege
- [9] 6(c) - to prevent prejudice to the maintenance of the law, including the prevention, investigation, and detection of offences, and the right to a fair trial
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In preparing this Information Release, the Treasury has considered the public interest considerations in section 9(1) of the Official Information Act.

FINAL DRAFT

Hon Bill English
Minister of Finance

Dear Minister

Vote Serious Fraud

You will recall that I wrote to you on 22 November 2010 regarding the future funding of the Serious Fraud Office (SFO).

At that time, the Justice Sector ministers had jointly agreed that additional funding was needed for the SFO to address both a historical neglect of the SFO and an unprecedented rise in major investigations. The changes proposed in the SFO's Four-year Budget Plan (4YBP) were part of the wider Justice sector proposals submitted to the Cabinet Strategy Committee in December 2010, for 2010/11 and 2011/12 funding requirements. Ongoing funding was not included as part of the \$40 million allocation, as it was thought that following a review of prosecution services, that the additional funding required would come from savings from a Vote outside the Justice sector.

As you will be aware, the Committee invited all Justice Sector agencies to resubmit their Budget Plans by 10 February, although I understand that the Ministry of Justice is seeking an extension to that time. In any event, Treasury have advised that any adjustments to baselines will not be confirmed before mid-April.

This timeline presents the SFO with very significant operational issues. As you are aware, SFO has a very small operating budget (\$7.47M in 2010/11) and undertakes a single operational output – investigating and prosecuting major financial crimes. Consequently, it has very little flexibility to manage its budget relative to the occurrence of such crimes.

The SFO was restructured last year so that it could investigate cases in a much more timely manner than in the past, and better target cases which have more positive impacts on investor confidence and the public in general. However, it is only funded under its Statement of Intent for 20 investigations per annum, and has already exceeded that number in the first half of the financial year.

[3]

There appear to be three options for dealing with SFO's issues:

1. Continue with the proposed budget decision-making timeline, and have the SFO manage within existing budget constraints;
2. Provide an interim assurance that the SFO's forecast overspend to maintain current investigations can be incurred, and then confirm funding as part of the approval process for Justice sector 4YBP;
3. Formally consider SFO's 4YBP ahead of the rest of the Justice sector to ensure that it can not only maintain current investigations, but also take on additional cases for the coming calendar year. This could be achieved through a stand alone Cabinet paper.

Option 1 – Maintain proposed budget approval timeline

While the SFO can remain within existing baselines if required, it can only do so by reducing its discretionary expenditure. The only material costs that the SFO has in this regard are external professional service costs such as prosecution counsel; accounting; valuation and other specialist advice. As these costs are case-driven, the SFO would have to terminate those cases which have material external costs to remain within its appropriation. [3]

Option 2 – Agree additional expenditure to maintain existing investigations

The SFO forecasts that, if the current workload were to be maintained, it would overspend on current appropriation by approximately \$0.505M. This would allow all existing cases to remain on foot.

However, it would not enable any new investigations to be commenced until existing cases are concluded. Nor would it enable the SFO to incur any additional expenditure, including recruiting for existing vacancies. SFO forecasts an additional \$0.520M would be required for this to occur.

Accordingly, in order for the SFO to maintain the current and anticipated investigations and prosecutions for 2010/11, an additional \$1.03M is required.

Option 3 – Approve the SFO's 4YBP ahead of current Justice sector timeline

The SFO has updated its 4YBP and a draft is attached. The Plan proposes additional funding of \$7.5M for 2011/12 and outyears, in addition to the funding sought for 2010/11 to maintain existing investigations and take on any new cases.

It notes that funding for 2010/11 and 2011/12 would be from the additional \$160M provisionally allocated to the sector. Funding for the outyears would require either new money or savings from other Votes. With regard to the latter, the Plan notes that there are several instances of duplicated investigations and prosecutions of financial crimes across departments and non-departmental votes. It is suggested that significant savings could be made by better coordination and aggregation of such cases, and the proposed review of prosecution services across government in 2011/12 could achieve this.

Proposed option – Cabinet paper

While I am conscious that it is desirable to take a sector perspective on all departmental Votes, I consider there are a number of reasons to prefer the third option:

- [8]

The decision made to retain the SFO requires a level of financial support and budget certainty, which can now be quantified;

- Vote Serious Fraud is only approximately 0.15% of the total Justice sector budget, and therefore is insufficiently material to the wider budgetary issues affecting the sector; and
- The funding proposed for 2010/11 and 2011/12 has already been agreed in-principle by Justice Sector ministers.

Given the criticality of the timing for the SFO to at least maintain “business as usual” I would be grateful for your consideration and urgent advice on the available options. I am able to meet with you, at your convenience, to discuss this matter further.

Yours sincerely

Hon Judith Collins
Minister Responsible for the Serious Fraud Office

cc
Minister of Justice
Attorney General