

**CASALS AND ASSOCIATES, INC**

**ANTI-CORRUPTION AND TRANSPARENCY PROGRAM  
Guatemala Technical Assistance  
For Anti-Corruption Activities**

**FINAL REPORT**

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**Submitted to**

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## TABLE OF CONTENTS

Executive Summary

I. Introduction

II. Background

III. Accomplishments

a. Objective I: To support Guatemalan led efforts to enhance transparency and accountability and deter corruption in Guatemala

- i. The IACC Agenda
- ii. Institutional Strengthening
- iii. Social Auditing
- iv. Key studies and reports

b. Objective 2: Comptroller General's Office and its capacity to effectively combat corruption strengthened

IV. Conclusions

V. Financial Report

VI. Summary of major activities

VII. List of documents annexed

VIII. Annexes

## **Executive Summary**

This is the Final Report for the USAID/Guatemala Anti-Corruption and Transparency Program (AC&TP), implemented by Casals & Associates from September 2003 to November 30, 2004. The Program supported national efforts to enhance transparency and accountability and deter corruption in Guatemala. It sought to build consensus around an anti-corruption policy and action agenda that would contribute to establish a national strategy and to strengthen the Office of the Comptroller General (OCG) and its capacity to effectively combat corruption. The Report focuses on the Program's achievements while a chronology of activities appear in an annexed document. The conclusion looks at lessons learned and establishes a balance between results obtained and expected results. Observations contained could provide guidance for future endeavors.

After encountering a difficult environment in Guatemala as a result of a complex electoral process, the AC&TP worked to unite divided sectors, facilitate contacts among different segments of Guatemalan society that were not communicating, and to encourage all stakeholders to seek a common goal. The Program served as a catalyst in creating trust among civil society organizations, within government institutions and between the public sector and its civil society. It has established the bases for further initiatives in several areas.

The Program focused on the Inter-American Convention Against Corruption (IACC), not well known by the Guatemalan Government (GOG) or civil society at the onset of the Program, to establish consensus around a set of objectives within a specific timeframe. It made both the Government and civil society aware of the commitment made by the GOG when signing and ratifying the Convention and explained its content and implementation processes. Scheduled to be evaluated by the Convention's Committee of Experts in February 2005, the AC&TP provided continuous support and technical assistance to the Office of Transparency Commission, created shortly after the inauguration of President Oscar Berger and established as the central authority for the IACC implementation, in coordinating efforts among several agencies in responding to the demands for IACC compliance. Similarly, the AC&TP trained and prepared civil society in accordance with the IACC Follow Up Mechanism, to monitor GOG IACC compliance and report to the Committee of Experts.

In essence, the AC&TP provided constant sensibilization on transparency issues. Key stakeholders, including the Executive, the Congressional Probity Committee, the private sector and civil society, became familiar with the IACC and conceptualized the significance of compliance. They reached a better understanding of the issues, such as probity and conflict of interest, and realized that laws by themselves are not sufficient in fighting corruption. Laws need to be revised to respond to IACC specifics and access to information is practically a pre-requisite for most serious anti-corruption initiative.

The AC&TP contributed in promoting institutionalization for transparency. Guatemalans in contact with the Program recognized the essentiality of strengthening the

control entities, primarily the Office of the Comptroller General, the Congressional Probity Committee and the Presidential Transparency Commission. Their work could be complemented by the decisive support of civil society alliances and networks but there is a need for internal reforms that would open doors for civil society participation.

The AC&TP can be credited with encouraging changes within the Congressional Probity Committee. In the past, selected members of the Committee took it upon themselves to conduct monitoring and control functions. Now, the Committee as an entity has embarked on that task, after receiving technical assistance in defining its functions. The Committee's profile has been raised within Congress as it has developed a closer working relationship with the Office of the Comptroller General and with civil society.

At the Office of the Comptroller General, the AC&TP provided essential technical assistance in designing, training and conducting performance audits and in evaluating numerous policy and actions. It strengthened the value of the institution among other sectors of society, especially Congress and civil society, dispelling motions to replace it. It provided a set of recommendations that constitutes the first comprehensive approach to strengthen the OCG's capacity to prevent corruption in an efficient, effective, economical and transparent manner.

AT&CP strengthened civil society. It made civil society aware of the tool at hand for monitoring IACC compliance and reporting to the Committee of Experts and trained it to be able to do it. It produced the first inventory of social auditing activities in Guatemala and encouraged more methodological approaches to social auditing to fight corruption. It supported *Coalición por la Transparencia* initiatives and facilitated research on important and timely topics, such as the civil service law and the budget procedures that affect how efficiently Guatemala uses public funds and its impact on poverty reduction.

Finally, the Program showed flexibility in responding to unexpected situations and taking advantage of crossroads where it could further transparency initiatives. It was fortunate to count with the committed support of the USAID/Guatemala Mission and with very competent local coordinators to carry out its activities.

## **I. Introduction**

Casals & Associates (C&A), manager and implementer, presents this Final Report on the Anti-Corruption and Transparency Program (Technical Assistance for Anti-Corruption Initiative TO) that ran from September 2003 to November 30, 2004. Following a brief background, the Report outlines the main accomplishments within the context of the two basic objectives set out in the SOW and Workplan:

- 1) To support Guatemalan led efforts to enhance transparency and accountability and deter corruption, and

- 2) Comptroller General's Office and its capacity to effectively combat corruption strengthened.

An Annex summarizes the Programs' activities. It shows the sequential and gradual process toward the Program's achievements. The activities are not detailed individually in the body of the report in order to keep this Report brief and focused on accomplishments. The individual reports produced during the life of the Program, annexed to this final one, could be consulted for more specific information.

The conclusion looks at lessons learned and establishes a balance between results obtained and expected results. These observations could provide guidance for future endeavors.

C&A is confident that the AC&TP has made a difference in moving forward Guatemalan efforts in reducing corruption and enhancing transparency and accountability. Casals appreciates the opportunity to support these efforts toward a more transparent Guatemala. It appreciates the decisive support of the USAID Mission/Guatemala during this process as well as the financial support of the America's Accountability/Anti-Corruption (AAA) Project.

## **II. Background**

The Anti-Corruption and Transparency Program supported national efforts to enhance transparency and accountability and deter corruption in Guatemala. It called for building consensus around an anti-corruption policy and action agenda that would contribute to establish a national strategy. It also sought to strengthen the Office of the Comptroller General (OCG) and its capacity to effectively combat corruption. The Program started in September 2003 and received two no cost extensions through November 30, 2004.

Prior to the election of President Oscar Berger, a convoluted electoral process<sup>1</sup>, the demands for implementing the 1996 Peace Accords, and the discredit of the National Transparency and Anti-Corruption Commission had left Guatemalan civil society exhausted and skeptic of any anti-corruption initiative. Rampant corruption characterized the outgoing administration and numerous high level officials would soon be jailed or indicted on corruption charges. Conditions in Guatemala for getting the Anti-Corruption and Transparency Program (AC&TP) started in September 2003 were not the best and interfered with the precise definition of the technical assistance to be provided. Caution was exercised until electoral results were known at the end of December 2003.

President Berger's inauguration in January 2004 offered an opportunity for providing technical assistance to the Government of Guatemala (GOG) and its civil society for establishing the basis for fomenting transparency and accountability in the public and private sectors. President Berger immediately named a Presidential Commissioner for Transparency that welcomed AC&TP technical assistance in getting the office organized

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<sup>1</sup> Two rounds of elections took place between September and December 2003. Former military dictator, Efraín Ríos Montt, vied for power and threatened with obstructing the constitutional order if not elected.

and in reviewing Guatemala's commitments under the Inter-American Convention Against Corruption (IACC). Gradually, civil society became more receptive to engaging in anti-corruption efforts and in reaching out to the official sector on areas of common interest.

The AC&TP worked to unite divided sectors, to facilitate contacts among different segments of Guatemalan society that were not communicating, and to encourage all stakeholders to seek a common goal. It has served as a catalyst in creating trust among civil society organizations, within government institutions and between the public sector and its civil society. It has established the bases for further work on several areas of transparency and accountability.

### **III. Accomplishments**

#### ***A. Objective 1: To support Guatemalan led efforts to enhance transparency and accountability and deter corruption in Guatemala.***

##### **i. The IACC Agenda**

In February 2005, when the Organization of American States' (OAS) Committee of Experts evaluates the GOG's compliance with the Inter-American Convention Against Corruption (IACC) it will do so based on two reports: the official report properly completed by the Presidential Commission for Transparency (CP), and an independent report from civil society prepared in accordance with the Follow Up Mechanism for receiving civil society inputs. The reports do not suggest that Guatemala has deterred corruption or faithfully complied with the IACC. They show, however, that for the first time a serious process is underway in Guatemala for challenging institutional corruption in a systematic way.

The Anti-Corruption and Transparency Program's (AC&TP) contribution in crafting that process is probably its greater achievement. It sensitized public officials, including the President and Vice President, and civil society organizations to IACC by making them aware of the commitment made by the GOG, showing how the IACC is a powerful anti-corruption tool, and explaining IACC's content and its implementation processes.

Technical support helped the Commission for Transparency realize the level of commitment required at the highest levels of government to fulfill IACC implementation. It led to creating and training an inter-agency Task Force on the IACC requirements as well as preparing a work plan and tentative calendar for responding to the OAS questionnaire. It was the first time that this type of collective effort was established among GOG institutions on such sensitive topic. Technical assistance included working with the Commissioner and the Commission's Executive Director in analyzing progress on responding to the OAS questionnaire that is the basis of the implementation Report.

Similarly, focusing civil society's attention on the specific items on which Guatemala will be evaluated during the first round in February 2005, provided a targeted anti-corruption agenda and time frame. It served to bypass the often-debilitating consensus-seeking route that Guatemala society was not yet ready to take. The AC&TP's trained over 20 civil society representatives on IACC monitoring and independent reporting to the Committee of Experts. *Acción Ciudadana* coordinated the follow up process of coordinating the report and presenting it to the OAS's Committee of Experts. The AC&TP accompanied the process and reviewed the preliminary report, making suggestions as needed.

In providing technical assistance to the Congressional Probity Committee, a key oversight entity, the AC&TP was also guided by the IACC. Article III (1), calling for "standard of conducts for the correct, honorable and proper fulfillment of public function" helped in defining the Committee's functions and responsibilities. Article III (9) asking for strengthening "oversight bodies with a view to implementing modern mechanism for preventing, detecting, punishing and eradicating corrupt acts," encouraged the Committee to ask AC&TP consultant for a review and recommendations on the Probity Law.

The Article II of the IACC emphasizes that standards of conduct "shall be intended to prevent conflicts of interest and mandate the proper conservation and use of resources entrusted to government officials in the performance of their functions." Applying this concept, the AC&TP increased awareness on conflict of interest issues among members of Congress, civil society and especially, among several prominent business associations in Guatemala. A series of meetings set the conditions for increased public debate on strategies to control and prevent conflict of interest in government-private sector activities.

In line with conflict of interest discussions, AC&TP's international consultants raised awareness on Article III (4) on creation and strengthening of "systems for registering the income, assets and liabilities of persons who perform public functions in certain posts as specified by law, and where appropriate, for making such registration public." In working both with the Congressional Probity Committee and with the Office of Comptroller General, attention focused on reviewing and improving the process of receiving and handling public officials sworn statements. Suggestions to the Director of Probity at the OGC included recommendations for making them available electronically.

Raising awareness on the IACC and particularly on the role for civil society in monitoring compliance, reached beyond Guatemala and into neighboring countries. AC&TP took advantage of resources available through the USAID America's Accountability and Anti-Corruption (AAA) Project to sponsor a Seminar entitled "From the Discourse to the Practice: The Role of Civil Society on IACC Implementation." Along with a theoretical panel on IACC implementation mechanisms, Transparency International leaders from Colombia and Panama explained their national experiences on drafting and presenting an independent report to the OAS. Civil society leaders from

Honduras, Nicaragua and El Salvador felt motivated to take the experience back home and get involved in monitoring IACC compliance.

## ii. Institutional Strengthening

The AC&TP helped public officials realize the importance of institutional strengthening in order to provide continuity to transparency initiatives. Technical assistance to the Transparency Commission stressed the need for creating a structure that satisfied its functions, and limiting its functions in order to be efficient and effective. Changes at the Commission, which has had three different commissioners within a ten months period, did not facilitate full implementation of these suggestions within the life of the Program.

Technical assistance to the Congressional Committee on Probity also included a review of its functions and responsibilities. And as it will be discussed under Objective 2, the Office of Comptroller General had significant support on institutional strengthening.

The AC&TP advised the Commission for Transparency on the structural and functional deficiencies of the previous National Commission for Transparency and Anti-Corruption, which served to evaluate its efficacy. Technical assistance to the National Commission could not be provided in the same form as expected in the SOW. Instead, a brief analysis of the Commission showed its inadequacies and alerted to its technical and structural problems, shifting the debate away from non-constructive criticisms of personality-oriented issues.

Resolving the Commission's dilemma liberated civil society for more productive anti-corruption efforts. AC&TP worked closely and supported the initiatives of the *Coalición por la Transparencia* and of each of its three member organizations (*CIEN*, *Acción Ciudadana* and the Guatemalan Chamber of Commerce). As a result, civil society organizations became engaged in drafting the IACC independent report; strengthened links with the Office of the Comptroller General and developed a close working relationship with the Congressional Probity Committee.

The Program's consultants encouraged civil society and Congress members to move away from finger pointing at the Office of the Comptroller General and to seek ways for strengthening rather than destroying the institution. Consequently, the Congressional Probity Commission, the Office of Comptroller General and the *Coalición por la Transparencia* reached a historical Memorandum of Understanding to work together on a common agenda. The US Ambassador served as honor witness at the signing ceremony.

In general, the AC&TP worked diligently to bridge the gaps among institutions and to create trust and better working relations between them and civil society. Conditions are now proper for deepening those relationships.



### iii. Social Auditing

At the start, the AC&TP met with numerous civil society organizations to introduce the Program and hear their views on corruption issues. An AC&TP consultant followed up by interviewing several organizations engaged in social auditing activities. As a result, the AC&TP produced the first Inventory of Social Auditing Organizations in Guatemala. Although not representative of all social auditing activities in the country, it provides a comprehensive view of the initiatives of approximately 12 organizations and their publications, which were listed separately in an annotated bibliography.

More than 30 representatives of organizations engaged in social auditing shared their experiences and lessons learned at a Social Auditing Workshop. Many came in contact with others for the first time. Participants evaluated the activity as very positive and agreed to stay in touch through a ListServe on social auditing specifically created for that purpose.

As part of the workshop, a Social Auditing Fair exhibited the work of several of the organizations at the workshop. More than sixty individuals attended the Fair in response to the announcement placed in a local newspaper. The activity raised expectations and interest among civil society organizations and citizens at large. A limited budget did not allow for more resource allocation to social auditing activities.

### iv. Key Studies and Reports

AC&TP international consultants produced numerous reports. They are found in the List of Reports annexed. In addition, local consultants produced several in-depth analyses on subjects such as the Budget Bill; review of the legislation affected by the IACC; a Congressional Strategic Agenda and more. Most of these reports were the result of agreements signed by the Program and the *Coalición por la Transparencia* and in support of the Transparency Commission and Congressional Probity Committee. They broadened the knowledge for additional actions. The reports are listed under national consultancies reports in the annexed list.

#### **B. Objective 2: *Comptroller General's Office and its capacity to effectively combat corruption strengthened.***

The AC&TP achievements toward strengthening the institutionalization of the Office of the Comptroller General under conditions of confusion and disarray, including the jailing of the Comptroller General for acts of corruption, were indeed remarkable. The professionalism and technical know how of the AC&TP consultant assigned to the OCG and USAID's prodding for decisive engagement by the Acting Comptroller General contributed in moving forward the agenda in an institution that practically refused to do so. In separate letters, the Acting Comptroller General thanked USAID for its critical support.

Assistance to the OCG centered primarily on developing the technical capabilities required for better control of public resources rather than on the more traditional ethics training. It entailed consolidating the OCG role as the superior control institution; supporting the modernization of government performance audits that evaluate results at entities, institutions and individuals subject to oversight; and doing it in an efficient, effective, economical and transparent manner.

The concrete accomplishments at the OGC included training 242 auditors; conducting twelve pilot audits at national and municipal institutions that meet international standards and leaving six more audits underway. This required revising the Guide for conducting government audits, providing instructions on how to prepare a report, revising and updating the Government Audit Manual, and establishing comprehensive procedures for the implementation of performance audits.

Three supervisors and 22 auditors were trained on how to supervise the audits and review results. Also, an internal resolution drafted by the consultant and signed by the Comptroller General established that all government audits would be result-oriented. The accord includes the criteria for identifying and reporting findings and the structure and content of the reports. Two-day seminars for 380 government auditors were conducted to disseminate the implications and reach of the new resolution.

At CEPROG, training material was updated and content of seminars reviewed. Recommendations included a comprehensive training program for 2004 and suggestions for improving the training institute facilities.

Several Internal Procedures were designed and signed by the Acting Comptroller General. One of them, the Follow up and Implementation of Auditing Results (known as SARA for its Spanish acronym), serves as a monitoring and follow up mechanism for the audit findings. It establishes the procedure for verifying that corrective measures required from the audit results are taken. The Director of Quality of Public Expenditure is responsible for verifying the processing of forms and documents contained in the SARA guide. The staff was trained on the implementation and implications of SARA.

The AC&TP consultant found some resistance within the OCG to implementing the new procedures. Some Units or Sections alleged lack of authority for completing the new forms. In order to find a solution to the conflict the consultant recommended a full revision of functions and responsibilities of those Units and suggested making changes to SARA, as needed for its implementation.

In several occasions, the AC&TP provided technical analysis and recommendations for implementation and improvement of SAG (*Sistema de Auditoría Gubernamental*). SAG is a component of the SIAF-SAG III funded by the World Bank. Results obtained from SAG have not met expected results. The C&A consultant briefed the World Bank on the status of SAG and provided final recommendations in a report submitted in September 2004.

As mentioned before, the AC&TP achieved several coordination efforts between the OGC and other sectors of society. The consultant briefed civil society on potential areas for cooperation on institutional strengthening. He also advised the OGC General Inspections Directorate to design and implement participatory mechanisms for strengthening transparency, probity and the credibility of the public function. *Coalición por la Transparencia* would act as the counterpart on the civil society part.

AC&TP consultant also advised the Congressional Probity Committee and the ad-hoc Comptroller General Committee on a strategy for supporting the OGC. He recommended clear identification of roles and functions between the Congressional Committees and the OGC in order to develop a collaborative relationship and a common agenda.

On two separate reports, the AC&TP provided analysis and input on the CGC Website. The first report evaluated the content of the website and the level of accessibility for users, finding it very deficient on both counts. Information available was not enough to contribute to transparency nor was it users' friendly. A second analysis conducted at the request of the OGC after changes had been made indicated little improvement. Specific technical recommendations were made for improving the content and style of the CGC's website.

The AC&TP also provided assistance in professionalizing the OCG's Power Point presentation. Changes include indicating how the new performance audits would operate and showing the results of the first pilot audits.

The consultancy report presented to USAID in September 2004 included six specific objectives for strengthening the OCG's effectiveness in combating corruption. Each objective included precise actions and its requirements. It also included recommendations for international donors on coordinating efforts to strengthen the OCG. The recommendations reflect the level of analysis and understanding of the OCG deficiencies reached by the consultant and constitutes the first comprehensive approach to deal with them in a systematic manner.

#### **IV. Conclusions**

The AC&TP achieved probably more than could have been expected under prevailing conditions in Guatemala between September 2003 and December 2004, and limited resources. The thick election climate permeated every government institution and all sectors of society. There was no certainty, for example, if public officials selected by independent processes and whose terms extended beyond the election date, would remain on their jobs. Such was the case at the Office of the Comptroller General, where there were doubts on the permanence of its head officer, (who eventually ended in jail), and auditors were involved in election activities unrelated to their jobs.

Key stakeholders had no time or interest for anti-corruption efforts during two rounds of elections. Developing an agenda that would serve "as the basis for public

dialogue and input to the political parties,” during the election period, as hoped for in the original SOW, was not feasible or realistic. In addition, the much-heralded National Transparency Commission had absolutely no credibility among a broad sector of civil society. It was a non-functional entity as shown in the study conducted in December 2003.

Upon taking office, President Berger promised to fight corruption but did not have a clear roadmap. Persecution of former public officials for alleged corruption acts took precedence over prevention of corruption. Fortunately, the Commissioner named at the newly created Transparency Commission, Carlos Vielman, immediately welcomed AC&TP technical support and accepted the Program’s suggestion of focusing attention on compliance with the IACC.

Promoting the IACC as the targeted anti-corruption agenda and concentrating on preparing the official and alternate reports to the OAS Committee of Experts proved a sound AC&TP decision. It dramatically reduced the discrepancies among stakeholders and avoided the long and tiring consensus-building process. The IACC agenda helped also in avoiding the often-unrealistic anti-corruption “wish list” that has characterized these processes in other countries. Thus, Congress, the Executive and civil society in Guatemala have been able to concentrate on the same agenda and work within a specific timeframe.

Presenting the report to the OAS Committee of Experts will not be the end of the process. Implementing the recommendations made by the Committee should help stakeholders remain focused on subject and timeframe. Also, there will be a need to prepare Guatemala for a second round of evaluation on IACC compliance, which will take place in the near future.

In providing technical assistance at every level, C&A consultants predicated the company’s views and expertise on institutional building and strengthening for fighting corruption, which states that:

- i. functions must precede the creation of structures,
- ii. functions should be defined in the narrowest possible forms,
- iii. and lean structures would then be established to fulfill the functions.

The AC&TP emphasized these guidelines when analyzing the structure of the National Transparency Commission and in advising the Transparency Commission and other institutions. Technical assistance to the Commission recommended designing operating manuals and providing the training that would be required for complying with the established functions. The fact that Commission had three Commissioners in ten months distracted from the tasks at hand. Maintaining consistency, continuity, simplicity and institutionalization are challenges currently faced by the Commission and the new Commissioner.

The AC&TP maintained a close working relationship with civil society and provided technical assistance as needed. Bringing together and training more than 15 civil society organizations on preparing the IACC independent monitoring report for the Committee of Experts is no small accomplishment. This was achieved in close collaboration with the well-defined *Acción Ciudadana* and its competent staff. Nonetheless, not all civil society organizations complied with their commitment to become fully involved in the report drafting process, placing extra burden on *Acción Ciudadana*.

AC&TP also collaborated with CIEN, the more research-oriented civil society organization, and supported the analysis of key areas that contributed to better understanding of structural deficiencies. The signed agreement with *Coalición por la Transparencia*, the coalition that groups these two organizations and the Chamber of Commerce, reflected the solid links established with these civil society organizations. It should be noted that in some instances, coordinating efforts with the *Coalición* suffered setbacks because of its bulged commitments.

Engaging civil society organizations that work on social auditing activities allowed the Program to come into contact with another set of stakeholders. Geared more toward sectors such as health and education, this group represents a stronghold for future anti-corruption initiatives. More organizations would welcome learning old and new skills on social auditing. Citizens at large attending the Social Auditing Fair seemed to be seeking opportunities to join in.

Two electronic Listserves established virtual communication opportunities for Guatemalan civil society organizations. Information disseminated through [guatetransparencia@egroups.com](mailto:guatetransparencia@egroups.com) may help in their anti-corruption efforts. One specific ListServe, [auditoriasocialguate@egroups.com](mailto:auditoriasocialguate@egroups.com), serves the organizations involved in social auditing activities.

Conflict of interest issues, related to the Probity Law and to the inefficacy of the sworn asset and liability statements for public servants, appeared to motivate private sector, government officials and civil society more than codes of ethics in the more traditional approach. The private sector, motivated by this topic and now willing to join forces with Congress, represents probably the most dynamic sector in Guatemala today and the one that could lead significant reforms on any of several issues.

The Guatemalan Congress, bitterly partisan and for years part of the corruption problem rather than the solution, cannot be expected to become a competent oversight institution overnight. Fortunately, the president of the 2004 Probity Committee, Rep. Roberto Alfaro, chose to make a difference. AC&TP found him a committed partner anxious to learn how to do things right and asking civil society for support. A partnership between the Probity Commission and the private sector could offer dynamism to transparency efforts.

Lastly, the Office of the Comptroller General received a significant dose of professionalism and technical assistance under the AC&TP. Eighteen audits meeting international standards; a Follow Up Mechanism established to monitor compliance with audits findings and recommendations; almost 300 auditors trained; training guides and manuals revised and updated; forms and agreements signed by the Acting Comptroller General; analysis of Webpage deficiencies and specific recommendations made; review of the procedures at the Probity Directorship and much more are significant contributions to strengthen the Comptroller General's Office to effectively combat corruption. Inexplicable delays in replacing the Comptroller General, weak competences among the staff and resistance to reform are some of the challenges facing the institution. It is, nonetheless, the superior control institution and as such, it should be strengthened rather than destroyed. The AC&TP emphasized, apparently successfully, this last point to the Transparency Commissioner, the Probity Commission and civil society.

Reducing and preventing corruption are generational tasks that require institutional strengthening and changes in society, particularly as corruption has become increasing pervasive in the recent past. Still, the process of reform is often slow and gradual. Under the current administration, Guatemala seems to have taken that road. Brief as it was, the AC&TP has made its small contribution toward a better and more transparent future for that nation.