

Consultations for the 5th National Action Plan on Open Government Fiscal, Financial and Corporate Transparency (FF&CT) – Framing the discussion

Executive Summary

Context: As part of its membership in the Open Government Partnership (OGP), an international multilateral initiative, the Government of Canada is developing its 5th National Action Plan on Open Government. This Action Plan will apply the principles and tools of open government, such as transparency, accountability, engagement, collaboration, inclusion and open data, to address targeted problems. Creating an action plan in consultation with civil society and the public is a key component of this process.

Topic: Enhancing fiscal, financial, and corporate transparency (FF&CT) has been a recurring request from Canadians, government, industry and civil society in previous National Action Plans as well as in the latest consultations. There has been some progress, but this remains an unfulfilled commitment.

Goal: There is much interest and demand for fiscal, financial, and corporate transparency in the 5th National Action Plan. The COVID-19 Pandemic has heightened the need for greater FF&CT in terms of response and recovery programs, the management of public funds and how the government counters the risks of corruption ([OECD](#), [OGP](#)). FF&CT is one of the most important, most researched open government topics (see references), but also one of the most challenging policy areas. As noted by the OGP Independent Research Mechanism (IRM) in its analysis of 2019-2021 Action Plans: “uptake is the entry point to action plans, but recurrence is what really creates room for ambition”.

What we heard from participants who have engaged in our consultations:

Increase fiscal, financial, and corporate transparency of the Government’s COVID-19 response. We heard that those we consulted with are concerned about the COVID-19 response and recovery programs, particularly with the management of public funds and contracts awarded. We heard that fiscal, financial, and corporate transparency can help track money, recapture lost tax dollars, save public money and decrease inflationary pressure in real estate markets.

- **Ensure corporate and financial transparency to counter money laundering and tax evasion.** We heard during the consultations that people want to see the creation of a national publicly accessible registry with information on who benefits from the ownership of companies incorporated in Canada. This registry should leverage stakeholders to validate the data, flag suspicious activities and strengthen enforcement.
- **Ensure fiscal transparency for public accountability.** Ideas to ensure fiscal transparency included improving proactive disclosure of public expenditures, and contracts, grants & contributions to enable stakeholders to track public money; to improve Canada’s procurement processes for more transparency and inclusion; and strengthen whistleblowing laws and policies to better protect people who report wrongdoings.
- **Increase public literacy of government finance.** We heard that, in addition to making corporate, financial, and fiscal information available, the government needs to offer tools to help people understand government finances.

What are international and Canadian best practices?

FF&CT is an important policy focus for international organizations such as the [Financial Action Task Force](#), [United Nations](#), [G20](#), the [OECD](#), [World Bank](#), [EU](#), [Extractive Industry Transparency Initiative](#) (EITI), and the [OGP](#). The OECD developed [OECD Best Practices for Budget Transparency](#) and a [Budget Transparency Toolkit](#). During the pandemic, the OGP also released [A Guide to Open Government and the Coronavirus: Fiscal Openness](#) with recommendations on the release of emergency response data in a format computers can process. In addition, this commitment aligns with other best practices such as the [OGP Open Contracting](#), [UN Article 9](#), the [EU Money Laundering Directorate](#), the [G20 High Level Principles on Beneficial Ownership Transparency](#) and [UK Companies House Persons of Significant Control Registrar](#). In 2019, the OGP Guide also published a [Global Report on Beneficial Ownership](#) recommending beneficial ownership commitments in National Action Plans.

What the civil society members of the Multi-stakeholder Forum (MSF) suggest:

The MSF agreed with the results of the consultation. On COVID-19, the MSF emphasized listing all companies that received COVID-19 contracts; publication of comprehensive data on personal protective equipment (PPE) procurement; and COVID 19 vaccine procurement. The MSF also stressed the importance of beneficial ownership transparency related to real estate, extractive industries, foreign ownership in Canadian assets and all contracts, grants & contributions, licenses and permits issued by the Government of Canada.

The MSF also emphasized ensuring integrating gender-based analysis (GBA+) and Indigenous procurement strategy into fiscal transparency for public accountability.

Why is FF&CT beneficial to Canadians?

A pan-Canadian publicly accessible registry of corporate beneficial ownership and open contracting is good for Canadians for the following reasons:

- Deters kleptocrats, criminals, sanction busters, and tax dodgers from trying to use Canada as a jurisdiction to park and pass illicit funds.
- Reduces likelihood of dirty money being used in property purchases, which can drive up property prices.
- Reduces funds cycling between domestic and foreign criminal networks to carry out operations such as the fentanyl trade.
- Creates a possible windfall for lost tax revenue in a time when public funds are stretched during the pandemic response.
- Reduces paperwork for small and medium sized businesses to access financial institutions.
- Provides a means for smaller financial institutions to access to beneficial ownership data for due diligence. Improves trust in Canada's business climate so that companies, the government, and communities know who they are working with.
- An Open Contracting Standard makes open public procurement data to easier to find and use.

- GBA+ and Indigenous procurement are equitable approaches to innovation enabling the growth of small and medium enterprises.

How does Canada fare in terms of Fiscal, Financial and Corporate Transparency (FF&CT)?

On beneficial ownership transparency, Canada is a global laggard. Canada's poor beneficial ownership regime was critiqued in the 2016 Financial Action Task Force (FATF) [mutual evaluation](#), where Canada received poor reviews on corporate and trust beneficial ownership transparency. Additionally, in 2017, Canada received a '[weak framework](#)' grade from Transparency International for implementation of the 2014 G20 High Level Principles on Beneficial Ownership Transparency. Furthermore, Canada scored poorly in the [Open Company Data Index](#). While neither FATF recommendations nor G20 High Level Principles explicitly call for a public beneficial ownership registry, they have been encouraged. [Many of Canada's peers](#) are adopting corporate beneficial ownership registries as part of international obligations, or through their own initiative. For example, all EU members must establish a publicly accessible beneficial ownership registry as part of [EU Anti-Money Laundering Directive 5](#). All 54 members of the Extractive Sector Transparency Initiative (EITI) must disclose ultimate beneficial owners of concession contracts. Some countries are also organizing around the OGP to establish a beneficial ownership registry. Finally, the United States passed legislation to establish a beneficial ownership registry on January 2021.

BACKGROUNDER

DETAILED BACKGROUND

5th National Action Plan on Open Government Consultations

- Canada must submit its 5th National Action Plan on Open Government to the Open Government Partnership in 2021 to meet its international obligations.
- To design the plan, Canada consulted Canadians from Fall 2019 to the end of 2020. The consultation included meetings with civil society, informational webinars, online discussion forums, virtual online events, and telephone town halls.
- Four broad themes emerged for further discussions, namely Financial and Corporate Transparency, Climate Change and Sustainable Growth, Combatting Disinformation and Safeguarding Fair Elections, Access to Justice, and Data for Results.
- Discussions on Financial and Corporate Transparency included:
 - **Three virtual online sessions** the week of December 7, 2020, in addition to an online discussion forum.
 - **30 participants** attended the events.
 - Representatives from Public Service and Procurement Canada (**PSPC**) and Global Affairs Canada (**GAC**) participated in sessions as technical experts.
- While the theme of the consultation was on “Financial and Corporate Transparency”, for the next phase of the consultations (i.e., with departments and civil society) we have expanded the theme to include ‘fiscal’, in other words “Fiscal, Financial and Corporate Transparency”. We did this given the interest of Canadians with regards to the management of public funds and contracts awarded during the pandemic.

WHY FISCAL, FINANCIAL AND CORPORATE TRANSPARENCY?

1) Continuity: 4th National Action Plan on Open Government

Input from previous consultations

While engaging in Canada’s 2018-2020 National Action Plan in 2017, those who participated in consultations expressed their concern to us that Canada was lagging other countries in preventing corporate malfeasance, including money laundering and corruption. They indicated their desire to see Canada create a registry of information on beneficial owners of corporations. Some stakeholders felt the 2016-2018 National Action Plan commitment fell short of their expectations.

Canadians we engaged also wanted to know where funds come from and how the funds are spent. They suggested a “Citizens’ Budget” that would explain in plain language the federal government’s spending plans, as well as tools dividing the Budget by themes or regions. To support further accountability, Canadians requested better reporting on services clearly demonstrating how their tax dollars are spent. We heard calls for more explicit links between the documents in the budget cycles: the estimates, the budget, and the Public Accounts, as well as procurement data. Canadians also requested that Canada officially endorse the Open Contracting Data Standard (OCDS) which would enable the disclosure of data and documents at all stages of the contracting process by defining a common data model.

Commitments in the 4th National Action Plan

Based on the above input from Canadians, in 2018 TBS, ISED, Finance and PSPC committed in the 4th National Action Plan to:

- Implement legislative amendments to require federal corporations to hold accurate and up to date beneficial ownership information.
- Work with provincial and territorial governments and key stakeholder representatives on possible options to improve timely access to beneficial ownership information, including retention and disclosure obligations relating to such information and the exploration of a public registry option.
- Continue to work with provincial and territorial governments to support coordinated implementation of the Agreement to Strengthen Beneficial Ownership Transparency
- Ensure that Canadians have access to open data on Government of Canada procurement
- Explore adoption of common contracting data standards across Canada.
- Make government budget and spending information easier for Canadians to find and understand.

What we have done so far:

- ISED and Finance Canada implemented amendments to the *Canada Business Corporations Act* to require privately held, federally incorporated corporations to create and maintain a register with information about “individuals with significant control” over their corporation and to enhance the availability of beneficial ownership information.
- ISED and Finance Canada supported provincial counterparts in implementing the 2017 Agreement to Strengthen Beneficial Ownership. British Columbia, Saskatchewan, Manitoba, Nova Scotia, and Prince Edward Island have passed similar legislation requiring private corporations to collect and maintain data about the individuals with significant degrees of ownership and control. The remaining provinces and territories continue to work on the implementation of their own measures.
- ISED and Finance Canada concluded consultations on centralized beneficial ownership registries in the Spring of 2020. A “What We Heard” Report will be released this winter summarizing the feedback they received from industry, civil society, and others.
- Public Services and Procurement Canada (PSPC) met with provincial and territorial governments to discuss potential [adoption of common contracting data standard](#) for tender notices (invitations to bid for a Government of Canada procurement opportunity).
- PSPC continues to evaluate policy and privacy considerations surrounding the publication of contracting data on EPS as open data.
- TBS updated in July 2020 the Guidelines on Proactive Disclosure of Contracts to align with Canada-US-Mexico Agreement (CUSMA).
- TBS updated Government of Canada [Infobase](#) with the latest Supplementary Estimates in November 2020 and departmental results reports for 2020-2021.
- PSPC continues to map contracting data on Buy and Sell against the latest OCDS standard. Pilot to publish contracts for fiscal years 2016 and 2017 as well as public workshops on open contracting are currently being delayed due to COVID.

2) What we heard in 2020 on Fiscal, Financial and Corporate Transparency

The following is a summary of what was heard during consultations and might not necessarily represent the Government of Canada views.

1. Increase transparency of the Government's COVID-19 response to better follow the money.
 - a. **Economic efficiencies.** The people we heard from on this topic indicated a real interest in beneficial ownership transparency, open contracting, and fiscal transparency to allow for auditing of where the money goes, recapture tax dollars, save public money and decrease inflationary pressures in the real estate market for more affordable housing.
 - b. **COVID-19 response and recovery transparency.** From those we talked to, we heard their concerns about the Government of Canada's transparency with regards to its COVID-19 response and recovery programs, particularly as it related to the management of public funds, contracts awarded and the risks of corruption.
2. Ensure corporate and financial transparency to counter money laundering and tax evasion.

Suggestions included:

 - a. The adoption of a national publicly accessible beneficial ownership registry for corporations as open data to better understand the corporate structure of companies.
 - b. **A coordinated framework to avoid capital flight.** We were told that corporate transparency would benefit from a coordinated effort domestically and internationally otherwise, there is a higher risk of capital evasion, resulting in loss of economic activities and tax revenues.
 - c. **Enforcement of coordination.** The people we spoke to noted that enforcement is limited in Canada due to the lack of a coordinated collection of beneficial ownership data and limited oversight resources. They noted that publicly available information can enable not only the RCMP, CBSA, FINTRAC, but other stakeholders such as civil society, auditors, academia, and journalists to validate the data and to flag suspicious activities, especially in the gaming, extractive and real estate sectors.
 - d. **The modernization of our tax system to avoid tax evasion.** We heard the need for technology and data to better monitor suspicious behaviors on financial transactions, especially considering the growing importance of the digital economy, and to even collect tax in real time (e.g., on each transaction).
3. Ensure fiscal transparency for public accountability:
 - a. **Proactive disclosure for accountability** on grants and contributions and contracts of less than \$10K or above \$1, categorized by programs and sectors to help identify providers/recipients. Less redaction in released documents due to privacy rights and leverage Access to Information (ATI) requests to better target proactive disclosure of interest to the public.
 - b. **Open data to track the money** by releasing improved data on public expenditures, contracts, and grants & contributions. It was noted that the government has limited resources for enforcement so by releasing more data, not only are TBS, Finance, CRA, the Parliamentary Budget Officer better enabled to track public money, but so are civil society, auditors, academia, and journalists.

- c. **Improve procurement processes.** Participants commented that Canada could adopt the Open Contracting Standard to make open data easy to find and to use by leveraging better technology (including open-source solutions). They asked the government to be transparent (release more information and data) on procurement practices, such as purchasing from social enterprise and applying GBA+ to procurement policies and processes. They noted that this in turn, could make our procurement process more inclusive and help understand which minority communities are being impacted since a lot of small and medium businesses are owned by marginalized groups.
 - d. **Whistleblowing law/policy.** Participants suggested strengthening current laws and policies for government to better protect people who report wrongdoings.
4. **Enhance financial literacy.** We were told that in addition to making corporate, financial, and fiscal information available, the government needs to provide the tools to help people understand this information.

WHAT ARE INTERNATIONAL BEST PRACTICES?

1) OECD Policy Areas

The [OECD Best Practices for Budget Transparency](#) recommends that:

- Parliament should have the opportunity and the resources to effectively examine any fiscal report that it deems necessary.
- All fiscal reports should be made publicly available. This includes the availability of all reports free of charge on the Internet.
- The Finance Ministry should actively promote an understanding of the budget process by individual citizens and non-governmental organizations.

The OECD also developed a [Budget Transparency Toolkit](#) in 2017, in partnership with the broader global community of budget and fiscal transparency institutions – in particular, the International Monetary Fund (IMF), the World Bank Group, and others who are part of the Global Initiative of Fiscal Transparency (GIFT) Network. The toolkit highlights that budget transparency brings integrity, inclusiveness, trust, and public accountability in public governance and it also strengthens anti-corruption policies.

2) OGP Policy Areas

Fiscal Openness

The OGP states that [Fiscal Openness](#) has been one of the mainstays of the open government movement and characterize this policy area as “transparency, public participation, and legislative oversight in the development of budgets”. The OGP recommends improving public participation and accountability by:

- Increasing citizen participation throughout the budget cycle to open decision-making.
- Applying open and participatory budgeting to specific sectors such as health and the environment; and
- Advancing gender and inclusion through gender-responsive budget reviews.

Fiscal transparency has been at the forefront of OGP advocacy efforts during the COVID-19 pandemic. In May 2020, as part of the [Open Response + Open Recovery Digital Forum](#), OGP, Open Contracting Partnership, and International Budget Partnership hosted a virtual conversation "[Open Response + Open Recovery: Strengthening Transparency and Accountability in Budgeting and Contracting](#)" on how to strengthen transparency and accountability processes in the budgeting and public procurement under an emergency situation while enabling a fast, efficient and transparent response.

As a result of the importance of fiscal transparency during the pandemic, the OGP also released [A Guide to Open Government and the Coronavirus: Fiscal Openness](#). The report highlights that as economies brace for long-term fallout from the crisis, tracking expenditures, tax benefits and financial sustainability becomes even more essential to ensure that corruption is mitigated, critical public services are delivered, and financing for future emergencies is taken into account. Among their many suggestions, the OGP recommends governments to:

- **Publish data on budget allocations and expenditure for the emergency response.** Publish complete and detailed information about supplementary budgets, including the emergency response and fiscal stimulus measures in machine-readable formats.
- Ensure that vulnerable communities are included in spending priorities, particularly in sectors such as health.
- **Develop participation opportunities and feedback mechanisms** through which the public can provide input to improve the efficiency and effectiveness of the service delivery and emergency response and stimulus plans design.

Beneficial Ownership

The OGP highlights that the absence of transparency around [beneficial ownership](#) is a significant issue for open government to address, and characterize beneficial ownership transparency an important tool for combating corruption, stemming illicit financial flows, and fighting tax evasion. Roughly 70 per cent of the biggest corruption cases between 1980 and 2010 involved anonymous companies. In a 2019 [Global Report on Beneficial Ownership](#), the OGP highlighted four recommendations:

- Strengthen disclosure requirements by reinforcing underlying legal and regulatory requirements.
- Improve the interoperability of information by applying common standards.
- Verify registered informants; and
- Engage citizens to monitor and report improprieties, including enabling citizens to actively use ownership data to uncover networks of corruption.

3) National Action Plans

Fiscal openness is the most popular theme in OGP, with [eighty-nine OGP members](#) (roughly 90% of OGP members – 73 national and 16 sub-national entities) having made over 580 fiscal openness commitments. These commitments span from as recent as 2020 and back to the very first OGP action plans in 2011. It is also worth noting that budget transparency is also one of the four eligibility criteria for membership to the OGP.

Although comparatively fewer members have made **beneficial ownership** commitments so far, it is a [rapidly growing policy area in OGP](#). To date, 31 beneficial ownership commitments have been included

in OGP action plans. These commitments span back to the first action plans in 2011. The IRM learned through the review of beneficial ownership commitments in OGP Members 2019-2021 National Action Plans that “uptake is the entry point to action plans, but recurrence is what really creates room for ambition”.

Some examples of successful fiscal openness and beneficial ownership commitments made by OGP member countries and recognized as good practices include:

- [United Kingdom](#): In their 2013-2015 NAP, the UK committed to place a requirement on companies to obtain and hold adequate, accurate and current information on their beneficial ownership. It committed to make information on individuals with significant interests in UK companies accessible in a central registry maintained by Companies House. Since its implementation [the registry has shown impressive uptake](#) – by the end of March 2017, more than 2.4 million companies had presented details of around 3 million people. It has also seen continued growth in the number of times people are accessing it, with more than 2 billion searches of company data made from 2016 to 2017.
- [South Korea](#): South Korea’s 2016-2018 NAP included a commitment on Proactive Disclosure of Public Information, which primarily focused on large-scale budgetary program information. The commitment was successful – this information was released at a rate of 49.6% on average as of December 2015, before the commitment was implemented. Since implementation, South Korea reached its goal of releasing this information at a rate of above 55% by late 2016.
- [Italy](#): Italy’s 2014-2016 NAP included a commitment called “Follow the Money (SoldiPubblici)”, which is recognized to have had a major impact on fiscal openness in Italy. The commitment sought greater transparency and a clearer public understanding of public expenditure, by using a web platform and open dataset called SoldiPubblici to monitor and analyze financial information from public institutions such as budgets, expenses, and contracts. The platform is recognized as a major improvement on civic access to public expenditures – with more than 1.5 million queries made in the first 30 days of activities. From November 2015 to July 2016, the portal registered 39,118 accesses and 82,909 pages visualizations, with an average now of 4,436 monthly access.

WHERE DO WE GO FROM HERE?

- This is one of the most important but also one of the most challenging open government policy areas and that it requires time and persistence. As noted by the OGP Independent Research Mechanism (IRM) analysis of 2019-2021 Action Plans, “uptake is the entry point to action plans, but recurrence is what really creates room for ambition”.
- While progress has been made through various past commitments, open contracting data, beneficial ownership transparency, and fiscal transparency remain key to an open government, especially when it comes to the management of COVID-19 response and recovery programs, the management of public funds and how the government counters the risks of corruption. There is a lot of interest and demand for including fiscal, financial, and corporate transparency in the 5th National Action Plan.
- Because participants to consultations emphasized that policy and program design, implementation, and evaluation of social, economic, or environmental issues could benefit from

open government values, departments and civil society will start thinking about concrete and actionable initiatives that integrate the principles of open government to improve fiscal, financial, and corporate transparency, such as:

- a. **Collaboration** across the Government of Canada, with provinces, territories and municipalities, and external stakeholders including academia, the non-profit sector, and the private sector is necessary.
- b. **Meaningful engagement with stakeholders** to raise awareness and communicate decisions on policies and programs throughout the process, not only as a one-off or an afterthought.
- c. Integration of a **diversity, inclusion, and equity** lens into the design, implementation, and evaluation of policies and programs (e.g., applying Gender-Based Analysis Plus - GBA+) to all the development stages of the commitment.