

21 March 2019

19-D-00318

s 9(2)(a)

Dear s 9(2)(a)

Thank you for your email of 21 February 2019 requesting the following under the Official Information Act 1982 (the Act):

In June 2018 NZIER published a paper titled "Economic impact analysis of 2050 emissions targets – a dynamic Computable General Equilibrium analysis", that I understand was commissioned by the Ministry of the Environment.

My request is for copies of, or links to, the briefing papers and notes that the Ministry of the Environment staff produced when commissioning NZIER to produce this report. I would also like to see NZIER's confirmation document.


The documentation that the Ministry for the Environment produced when commissioning the NZIER report is contained in a single document titled 'CSO _22245 with NZ Institute of Economic Research re Economic Impact Analysis of New Zealand's Potential 2050 Emissions Targets' and dated 11 January 2018. We are releasing this document to you and it is enclosed.

One mobile phone number has been withheld under section 9(2)(a) of the Act to protect the privacy of natural persons.

If you have any queries, please feel free to contact our Executive Relations team.

Please note that the Ministry for the Environment releases responses to selected requests for official information on our OIA responses page shortly after the response has been sent.

Yours sincerely



Janine Smith
Director, Climate Change

Part A – for Participating Agency (client) to complete
 The Participating Agency (referred to as the client in Parts A – E of this Consultancy Services Order) will complete this and email the entire form (including all Parts) to the Provider.

Today's Date	11/1/2018	Client	Ministry for the Environment
Client Contact	Chris Holland	Client Email Address	Chris.holland@mfe.govt.nz
Provider	New Zealand Institute of Economic Research (NZIER)	Contact Name	Chris Holland
Nominated Personnel	John Ballingall (NZIER) Adolf Stroombergen (Infometrics) Dr Erwin Corong (NZIER)	Contact Title	N/A
Project name or short title for Contract Contract reference number name	Economic Impact Analysis of New Zealand's Potential 2050 Emissions Targets	Contact Phone #	s 9(2)(a)
Sub Category			

Purpose and any background information

To inform advice to Ministers, the Ministry requires robust economic analysis of a range of potential 2050 greenhouse gas emissions targets. This analysis will support a public consultation in 2018 on the level of and basis for setting the 2050 target under the forthcoming Zero Carbon Bill. The economic analysis will estimate the impacts, costs and benefits of a range of potential 2050 targets, relative to existing Government policy.

RELEASED UNDER THE OFFICIAL INFORMATION ACT 1982

Specific questions / instructions for Provider

The Provider will deliver macro-economic analysis using a Computable General Equilibrium (CGE) model of the New Zealand economy, that will detail results by sector, region, trade flow and income quintile.

The analysis using the CGE model must include:

- developing economic impact analyses at national, sectoral, distributional and regional levels for meeting potential 2050 emissions targets provided by the Ministry.
- testing the impact of a range of high-level policy scenarios on these results.
- extending the analysis to consider the global context for New Zealand's actions:
 - considering a more refined baseline (the expected economic impact of the physical changes from climate change on New Zealand)
 - considering global action on climate change. The impact on New Zealand of the climate actions of other countries could be taken into account by varying baselines
 - incorporating the potential benefits for New Zealand from greater global innovation in low emissions technologies, and the potential for New Zealand to capture potential first mover benefits in areas of comparative advantage
 - considering changes in trade flows with other countries to enable a more detailed assessment of targets would not be required.

Additional Information e.g. risks to client, additional contact information

None

RELEASED UNDER
THE OFFICIAL INFORMATION ACT 1982

Client specific requirements

The Ministry requires the work to be progressed as two workstreams:

Workstream 1

The focus of workstream 1 will be to develop a detailed understanding of the national economic impacts of meeting the proposed emissions targets for 2050. The Provider will use a New Zealand specific CGE model, or models, with regional and distributional analytical capability.

The Provider will use the modelling analysis to construct a baseline scenario: the impact on the economy of achieving current climate targets (the first Nationally Determined Contribution under the Paris Agreement). The baseline will include: expected impact of existing policies; projected economic growth, fuel and commodity prices; anticipated changes in the cost, availability and performance of low emissions technologies; the availability, or limits on, and the cost of, international purchases of emission reductions.

The key deliverable for workstream 1 is sound, credible advice on the economic impacts of meeting potential 2050 emissions targets. The Provider will explore different options for targets, for instance by greenhouse gas and or sectoral emissions and provide advice on:

- whole-of-economy impacts (economic activity, investment, trade, emissions), relative to the basecase, of meeting targets, over a series of time intervals (e.g. 2030, 2040 and 2050 and potentially beyond)
- sector-specific impacts across the key emitting sectors (including land use, transport and energy)
- regional impacts (including impact on economic activity, sectoral composition, investment and employment)
- distributional impacts on households by income group (including impact on income, household investment).
- the economic impact of varying the transition pathway from a straight line to 2050 to a pathway that starts more slowly and then increases the rate of change towards 2050
- the potential impact of a small number of additional high-level climate and sector-specific policies on the economic impacts of meeting an emissions target (for instance, an incentive to purchase electric vehicles). The Ministry will agree these with the Provider via email before 31 January 2018.

Workstream 2

For workstream 2, the Provider will replicate workstream 1's assessment of national impacts using an aligned baseline. The Provider will consider the expected economic impact of the physical changes from climate change on New Zealand and by considering global action on climate change, and will involve analysis using a global CGE model linked with a national level CGE model.

The analysis in workstream 2 should consider the impact of global emissions on New Zealand, both through the expected economic impacts of physical climate changes on New Zealand, and the net benefits from avoiding dangerous and irreversible climate changes. It will also provide an assessment of the impacts on New Zealand's international competitiveness and the risk of emissions leakage.

The Provider must provide an assessment of the potential benefits to New Zealand from greater global innovation in low emissions technologies, and the potential for New Zealand to capture potential first mover benefits in areas of comparative advantage.

Workstreams 1 and 2 will use common assumptions regarding the baseline case and the policies analysed where possible.

The key deliverable for workstream 2 will be advice on:

- whole-of-economy impacts (economic activity, investment, trade, emissions), relative to the basecase, of meeting targets, over a series of time intervals (e.g. 2030, 2040 and 2050 and potentially beyond)
- sector-specific impacts across the key emitting sectors (including land use, transport and energy)
- regional impacts (including impact on economic activity, sectoral composition, investment and employment)
- distributional impacts on households by income group (including impact on income, household investment).
- the economic impact of varying the transition pathway from a straight line to 2050 to a pathway that starts more slowly and then increases the rate of change towards 2050
- the potential impact of a small number of additional high-level climate and sector-specific policies on the economic impacts of meeting an emissions target (for instance, an incentive to purchase electric vehicles). The Ministry will agree these with the Provider via email before 31 January 2018.
- economic impacts on New Zealand's international competitiveness and the risk of emissions leakage
- the effect on economic impacts of incorporating the potential benefits for New Zealand from greater global innovation in low emissions technologies, and the potential for New Zealand to capture potential first mover benefits in areas of comparative advantage, into the modelling
- the economic impact of the relativity of New Zealand's level of ambition or speed of transition when compared to the rest of the world.

Finally, the results in workstream 2 should be complemented with sensitivity analysis. The specific sensitivities will be agreed with the Ministry before the 23 February 2018.

Timeframes

The work will be conducted between January and June 2018. Please see "Outputs of the Services" (below) for specific timeframes for deliverables.

Indicative budget

\$232,180 excluding GST. No disbursements apply.

Outputs of the Services

Description/Milestone	Indicative date for delivery	
Workstream 1:		
1. Confirming approach: Written update on progress constructing: <ol style="list-style-type: none"> the baseline case, and alignment with workstream 2 the planned approach to analyse the impact of the targets and the approach to modelling policies as agreed with the Ministry. 	31 Jan 2018	
2. Initial modelling: Written update specifying results of initial modelling runs set out above in 1.	23 Feb 2018	
3. Including sectoral, distributional and regional analysis: Written update specifying any updates to approaches in 1 above, and the initial findings of the impact of the runs set out in 1 on key sectors, the distributional impact analysis across society and regional analysis.	3 March 2018	
4. Workstream 1 technical and policy reports: that collates the written updates highlighted above, and which also updates all sections of analysis as appropriate. Reports should provide analysis of the sectoral, regional and distributional impacts of meeting targets, and any high level account of the impacts on New Zealand's international competitiveness and emissions leakage.	Required delivery date: 16 March 2018	
Workstream 2:		
1. Confirming approach: Written update on progress constructing: <ol style="list-style-type: none"> the baseline case, alignment with workstream 1 the planned approach to refining the baseline the planned approach to analyse the impact of the targets and the approach to modelling policies as agreed with the Ministry. 	23 Feb 2018	
2. Initial modelling: Written update specifying results of initial modelling runs set out above in 1.	23 March 2018	
3. Including sectoral analysis: Written update specifying any updates to approaches in 1 above, and the initial findings of the runs set out in 1 above on key sectors.	18 April 2018	
4. Extended modelling results at national and sectoral level of including: <ul style="list-style-type: none"> understand the cost of global inaction above current levels to New Zealand's economy, the implications of rest of the world's climate actions on New Zealand the impacts on New Zealand's international competitiveness and the risk of emissions leakage. the effect on impacts of incorporating the potential benefits for New Zealand from greater global innovation in low emissions technologies, and the potential for New Zealand to capture potential first mover benefits in areas of comparative advantage, into the modelling. 	9 May 2018	
5. Sensitivity analysis as indicated for workstream 2	18 May 2018	
6. Workstream 2 technical and policy report: that collates the written updates highlighted above, and which also updates all sections of analysis as appropriate and draws conclusions across both workstream 1 and 2 together. Reports should provide analysis of the sectoral impacts of meeting targets, and detailed assessment of the impacts on New Zealand's international competitiveness and risk of emissions leakage.	Required delivery date: 1 June 2018	

Provider liability cap

Part B – for Provider to complete

The Provider will complete Part B and email the form back to the client

Specific Services to be provided

Please see the Provider's response to RFP-0941-01 (attached) for details of the specific services to be provided.

Sub Category and Tier to be Provided

Selection	Sub-category of Services	Tier (1/2/3)
	Accounting	
	Assurance	
	Audit	
✓	Finance and economics	2
	Procurement and logistics	
	Taxation	
	Business change	
	Human resource	
	Marketing and public relations	
	Operations management and risk	
	Policy, research and development	

Can you confirm that the Nominated Personnel (if any) is available to provide the Services?

Yes

Can you confirm that the timeframe is acceptable?

Yes

Estimated Start and End Date

Start	15 January 2018	End	1 June 2018
--------------	-----------------	------------	-------------

Estimate / Quote (excluding GST, if any)

Fees	\$232,180.00
Administration Fee (Tier 1 and 2 only)	\$2,321.80
<i>(Optional)</i> The above Fees are apportioned as follows:	
Job Level 1	\$
Job Level 2	\$
Job Level 3	\$
Job Level 4	\$
Job Level 5	\$
Fixed Fee (Job Level 1)	\$
Fixed Fee (Job Level 2)	\$
Fixed Fee (Job Level 3)	\$
Fixed Fee (Job Level 4)	\$
Fixed Fee (Job Level 5)	\$
Monthly Retainer	\$
Subcontracting	\$
Expenses	\$
Total Charges	\$234,501.80
Identify whether the Total Charges is an Estimate / Quote and the method that the Charges have been calculated	

Additional information / assumptions:

--

Job Level	Indicative Characteristics
Level 5	<ul style="list-style-type: none"> • 15+ years of extensive professional experience in their specialised field in a consultancy role. • An industry leader and key influencer who is respected for their professional proficiency and knowledge. • Recognised as a trusted adviser to ministers and/or senior executive teams. • Acts as the senior responsible person on major client engagements. Able to be accountable for leading complex projects/programs. • Responsible for leading a high performing team of professionals, including the coaching and mentoring of colleagues at Levels 1–4.

Level 4	<ul style="list-style-type: none"> 10+ years of substantial professional experience in their specialised field in a consultancy role. Strong theoretical base in subject area, with ability to apply best practice principles to the subject matter context. Senior team leader with the ability to deputise for the senior responsible person and coach and mentor more junior staff. Ability to coordinate contributions of other specialists to complete a joint project. Can engage with clients at strategic/management level if required.
Level 3	<ul style="list-style-type: none"> 3-10 years of notable professional experience in their specialised field in a consultancy role. A trusted performer on a wide range of client-facing consultancy projects in both the private and public sectors. Thorough knowledge of functional area, combining a broad grasp of relevant best practice principles. Ability to participate in multi-disciplinary teams and to work independently (with limited supervision). Performs professional level analysis requiring technical skills and independent initiative within a well-defined program of work. Contacts with clients predominantly at a working level.
Level 2	<ul style="list-style-type: none"> 1-3 years of demonstrable professional experience in their specialised field in a consultancy role. Previous experience on a range of client-facing consultancy projects, preferably in both the private and public sectors. Has a theoretical base in subject area, possibly supplemented through recent study, with the ability to translate theory into practice Performs a variety of analytical tasks requiring independent initiative and knowledge. Interacts with clients predominantly at the working level.
Level 1	<ul style="list-style-type: none"> 0+ years of relevant professional experience in a professional environment. Evidence of prior contributions to consultancy engagements. Performs a range of administrative tasks to support the wider team. Work is performed under the guidance of colleagues at Levels 3-5.

Conflict of Interest declaration and Additional Information

I, John Stacey Ballingall have made diligent inquiry whether NZIER has any actual, potential or perceived Conflict of Interest were it to provide the Services described in this Consultancy Services Order and I have disclosed any actual, potential or perceived Conflict of Interest and how it will be managed below:

We have no conflicts of interest with respect to this work.

Additional information

Part C – Variations to Part A

LEAVE BLANK WHEN ISSUING CONSULTANCY SERVICES ORDER

The client will complete Part C if they wish to change any details in Part A

Revised scope and/or timeframe

--

RELEASED UNDER
THE OFFICIAL INFORMATION ACT 1982

Part D – Variations to Part B

LEAVE BLANK WHEN ISSUING CONSULTANCY SERVICES ORDER

The Provider will complete this only if and when it receives a Variation per Part C above from the client

Revised Estimate (excluding GST, if any)

Revised Fees	\$(Add in total Fees)
Administration Fee (Tier 1 and 2 only)	\$(1% of Fees for Services for which the Provider is Tier 1 or Tier 2)
<i>(Optional)</i> The above Fees are apportioned as follows:	
Job Level 1	\$
Job Level 2	\$
Job Level 3	\$
Job Level 4	\$
Job Level 5	\$
Fixed Fee (Job Level 1)	\$
Fixed Fee (Job Level 2)	\$
Fixed Fee (Job Level 3)	\$
Fixed Fee (Job Level 4)	\$
Fixed Fee (Job Level 5)	\$
Monthly Retainer	\$
Subcontracting	\$
Revised Expenses	\$
Total Charges	\$
Identify whether the Total Charges is an Estimate / Quote and the method that the Charges have been calculated	

Additional information / assumptions:


--

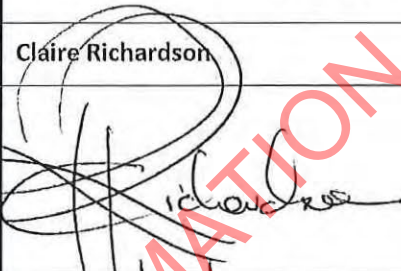
RELEASED UNDER THE OFFICIAL INFORMATION ACT 1982

Part E – Acceptance

LEAVE BLANK WHEN ISSUING CONSULTANCY SERVICES ORDER

The Provider and client to complete on acceptance of this Consultancy Services Order

Name of Provider's authorised signatory	John Stacey Ballingall
Signature of authorised signatory	

The client accepts and authorises this Consultancy Services Order	[Yes/No]
Name of client's authorised signatory	Claire Richardson
Signature of authorised signatory	
Date of acceptance	16/2/18
Client's job reference or purchase order number	

RELEASED UNDER THE OFFICIAL INFORMATION ACT 1982

Part F – Terms

THE PROVIDER AND PARTICIPATING AGENCIES ARE NOT PERMITTED TO AMEND THIS PART F.

This Part F contains an extract of selected terms and conditions from the Services Agreement (the Agreement). Clause, schedule and paragraph references have been updated to refer to clauses, schedules and paragraphs in this Part F where applicable. For the full terms and conditions that govern the Services, please refer to the Agreement.

1. Appointment

1.1 Appointment

- (a) The Participating Agency appoints the Provider to provide Services to the Participating Agency as detailed in this Consultancy Services Order and the Provider accepts that appointment, in accordance with the terms of this Consultancy Services Order.
- (b) Certain obligations of the Provider in this Consultancy Services Order do not apply to sub-categories of Services for which the Provider has been appointed as a Tier 3 Provider as follows:
 - (i) the Participating Agency may nominate specific Personnel to be the primary providers or to supervise the delivery of the Services but clauses 6.2(b) to 6.2(e) do not apply to any nominated Personnel;
 - (ii) the relevant Services are not required to meet or exceed the Service Levels specified in Schedule 3 (Performance Measurement) and clause 2.5(a), Schedule 3 (Performance Measurement) do not apply;
 - (iii) the Provider is not required to pay an Administration Fee and clause 8.3(a)(v) does not apply;
 - (iv) the Provider is not required to conduct the Agency Satisfaction Survey for the relevant Services and clause 5.1(h) does not apply;
 - (v) the Provider and Participating Agency are not obligated to escalate a dispute to the CoE's All-of-Government Procurement Manager, Centre of Expertise for Consultancy, in accordance with clause 13.2(c)(ii); and
 - (vi) as otherwise stated in this Consultancy Services Order.

2.2 Agents may procure Services

2.3 Timely performance

2.4 Delay

- the terms of this Consultancy Services Order.
- (b) The Provider will use all reasonable endeavours to ensure that, on the date the Documentation is provided under this Consultancy Services Order, such Documentation is in a readable and readily useable format.
- The Participating Agency may, by notice to the Provider and the CoE, appoint one or more third parties to procure Services under this Consultancy Services Order on the Participating Agency's behalf and/or receive invoices, as if that agent was a Participating Agency, provided that any such procurement is for the sole benefit of the Participating Agency.
- The Provider will ensure that the Services to be performed under this Consultancy Services Order are provided on or before the date specified for performance (if any) in this Consultancy Services Order and, if no time is specified, within a reasonable time after the issue of the Consultancy Services Order.
- (a) If the Provider considers that it is (or is likely to be) prevented or delayed from achieving a date or time for performance (Milestone) specified in this Consultancy Services Order (Delay), it will:
 - (i) immediately provide notice verbally or in writing to the Participating Agency, setting out:
 - (A) the cause of the Delay and its expected duration;
 - (B) the effect of the Delay on its ability to perform its obligations under this Consultancy Services Order (including any future Milestones);
 - (C) what extension, if any, to the relevant Milestone is being sought; and
 - (D) what steps, if any, the Participating Agency

2. Services

2.1 Services

- (a) The Provider will provide Services to the Participating Agency in accordance with

- may take to mitigate the effect of the Delay; and
- (ii) take all reasonable steps necessary (including by the allocation of additional resources) to eliminate or avoid the Delay and, in all cases, mitigate its effects.
- (b) If the Provider and Participating Agency agree that the Delay is acceptable or wish to amend the Milestone:
- (i) the Provider will complete and submit Part C of this Consultancy Services Order to the Participating Agency; and
 - (ii) upon receipt of the completed Part C of this Consultancy Services Order, the Participating Agency must promptly advise the Provider in writing if the completed Part C is acceptable.
- (c) If the Provider does not achieve the Milestone (as amended from time to time) and the Participating Agency's acts or omissions, or those of its Personnel or third parties acting on its behalf, have not caused the Provider to fail to achieve the Milestone, the Participating Agency may, without prejudice to any other right or remedy, suspend payment of any Charges relating to this Consultancy Services Order until the Provider remedies the relevant failure.

2.5

Service standards

- (a) The Provider must provide the Services in relation to the sub-categories for which the Provider has been appointed as a Tier 1 and Tier 2 Provider to a standard that reaches or exceeds the Service Levels specified in Schedule 3 (Performance Measurement).
- (b) In addition, the Provider must:
 - (i) provide the Services diligently, efficiently, effectively and in accordance with Industry Best Practice;
 - (ii) ensure that the Services to be performed under this Consultancy Services Order are provided on or before the date specified for performance (if any) in this Consultancy Services Order and, if no time is specified, within a reasonable time after the issue of this Consultancy Services Order;
 - (iii) ensure that all Documentation, information and advice (including Documentation, information and advice provided prior to the issue of this Consultancy Services Order) provided to the Participating Agency or published on the Provider Database is Fit for Purpose so that, without limitation, it contains sufficient content and detail to enable the Participating Agency

to make use of it for the purpose for which it was requested;

- (iv) act in the best interests of the Participating Agency in the provision of Services to the Participating Agency; and
- (v) provide Services to the reasonable satisfaction of the Participating Agency (as reported to the CoE).

3. Estimates and Quotes

3.1 Estimates and Quotes

- (a) The Provider must provide an Estimate or Quote for all Services to be provided under this Consultancy Services Order, unless the total Fees in respect of the Services under this Consultancy Services Order are likely to be less than \$10,000 (exclusive of GST) or such other amount as determined by the CoE and notified to the Provider.
- (b) Despite clause 3.1(a), if, during the course of providing the Services, the Provider becomes aware that the total Fees (excluding GST) are likely to exceed the amount referred to in clause 3.1(a), the Provider must provide an Estimate in accordance with clauses 3.1(c) to (e).
- (c) All Estimates and Quotes will be provided at no cost to the Participating Agency.
- (d) All Estimates and Quotes must specify the estimated timeframe to perform the Services requested in this Consultancy Services Order and the Rates of Personnel providing the Services and include any Expenses likely to be incurred in providing the Services.
- (e) All Quotes and Estimates must be provided to the Participating Agency in writing and must be included in this Consultancy Services Order.
- (f) To avoid doubt and without limiting clause 4.5(c) of the Services Agreement, if any Quote or Estimate is not acceptable to the Participating Agency, the Participating Agency and Provider may seek to negotiate a more favourable Quote or Estimate, including a decrease in the Rates on which the Quote or Estimate was based.

3.2 If Charges exceed the Estimate

- (a) If during the course of providing the Services under this Consultancy Services Order, the Provider becomes aware that the total Charges (excluding GST) are likely to exceed the Estimate, the Provider must give written notice to the Participating Agency using Part D of this Consultancy Services Order as soon as the Provider becomes so aware, but no later than the time the costs accrued or incurred reach 80% of the Estimate.
- (b) The notice under clause 3.2(a) must specify a revised Estimate for the Services and include the reason the total

- Charges will exceed the original Estimate.
- (c) The Participating Agency has sole discretion whether to approve a revised Estimate and must act reasonably when deciding whether to approve a revised Estimate.
- (d) When a revised Estimate is approved, the Participating Agency must provide written notice of the same to the Provider.
- (e) If a Provider has provided an Estimate to the Participating Agency for Services, the Participating Agency is not liable to pay the Provider any amount exceeding the Estimate unless the Participating Agency has approved a revised Estimate.

3.3 If Charges exceed the Quote

- (a) The Provider acknowledges that neither the CoE nor the Participating Agency are obliged to pay any Charges to the Provider in relation to Services performed under this Consultancy Services Order if those Charges exceed any Quote provided in relation to this Consultancy Services Order, unless the Participating Agency has given its prior written consent in accordance with clause 3.3(b).
- (b) If the Participating Agency agrees to allow the Provider to increase the Charges:
 - (i) the Provider will complete and submit Part D of this Consultancy Services Order to the Participating Agency; and
 - (ii) upon receipt of the completed Part D of this Consultancy Services Order, the Participating Agency must promptly advise the Provider (in writing) if the completed Part D is acceptable.

4. Conflicts of Interest

4.1 Conflicts of Interest

- (a) The Provider must, upon receipt of this Consultancy Services Order, make diligent inquiry whether it has any actual, potential or perceived Conflicts of Interest if it were to provide the Services specified in this Consultancy Services Order and, if no such Conflict of Interest exists, the Provider must provide confirmation to that effect to the Participating Agency.
- (b) If the Provider has an actual, potential or perceived Conflict of Interest, the Provider must immediately notify the Participating Agency and must not begin performing the Services without the prior written approval of the Participating Agency.
- (c) The Provider must take all reasonable steps to ensure that:
 - (i) a situation does not arise that might result in an actual,

potential or perceived Conflict of Interest; and

- (ii) any Personnel or Subcontractors of the Provider do not engage in any activity or obtain interests that might result in the Provider or such Personnel or Subcontractors having an actual, potential or perceived Conflict of Interest,

that cannot be managed to the satisfaction of the Participating Agency.

- (d) If, after commencing Services under this Consultancy Services Order, the Provider becomes aware of any matter, circumstance, interest or activity that may give rise to any actual, potential or perceived Conflict of Interest, the Provider must immediately notify the Participating Agency of all relevant details and must immediately cease work on the Services until such time as the Participating Agency provides written notice confirming the Provider may continue to perform the Services or terminates the engagement of the Provider in respect to the Services to be performed under this Consultancy Services Order in accordance with clause 4.1(e).
- (e) If the Participating Agency considers that the Provider has an actual Conflict of Interest of sufficient gravity that the Provider can no longer perform Services for it, the Participating Agency may, by written notice to the Provider, terminate this Consultancy Services Order with immediate effect on the date of termination specified in that notice.
- (f) Any approval or notice given by the Participating Agency pursuant to clause 4.1(b) or 4.1(d) may require the Provider to take steps reasonably required by the Participating Agency to manage the Conflict of Interest, and the Provider must provide written notice confirming its acceptance of those steps before it may commence or continue to provide the Services under this Consultancy Services Order.

5. Responsibilities

5.1 Provider responsibilities

In addition to its other obligations under this Consultancy Services Order, the Provider will:

- (a) respond promptly, accurately and adequately to any requests for information made by the Participating Agency in relation to the Services, including requests for advice;
- (b) in performing Services for the Participating Agency under this Consultancy Services Order comply with all privacy and other policies and guidelines issued by the Participating Agency and notified or made available to the Provider;
- (c) obtain, maintain and comply with any governmental, regulatory or other

approvals, permissions, consents, licences, and requirements necessary to provide the Services and perform its obligations under this Consultancy Services Order;

- (d) comply with all Laws at all times during the Term in so far as they relate to the provision of the Services, including the Privacy Act 1993 and all applicable consumer laws;
- (e) ensure that it and its Personnel providing the Services do not access the Participating Agency's information or systems except to the extent necessary to provide the Services and for no other purpose;
- (f) as soon as is practicable, notify the Participating Agency of any problems or issues that arise in relation to the performance of its obligations under this Consultancy Services Order, including any problems or issues that will, or are likely to, affect the provision or quality of the Services or the ability of the Provider to perform its obligations under this Consultancy Services Order;
- (g) without limiting any other provision of this Consultancy Services Order, use all reasonable endeavours to avoid damaging or adversely affecting any Participating Agency's reputation;
- (h) in relation to the sub-categories for which the Provider has been appointed as a Tier 1 and Tier 2 Provider, conduct the Agency Satisfaction Survey by asking the Participating Agency the questions recorded in Annexure A of Schedule 5 (Governance) to the Services Agreement within 5 Business Days of the Services in this Consultancy Services Order being completed.

5.2 Participating Agencies' responsibilities

The Participating Agency has the following responsibilities in relation to the Services:

- (a) to manage its operational relationship with the Provider, including in relation to the fulfilment of this Consultancy Services Order;
- (b) to notify the Provider of all relevant policies, guidelines and procedures of the Participating Agency that the Provider must comply with when performing the Services under this Consultancy Services Order;
- (c) to provide adequate instructions and information to the Provider to allow it to perform the Services under this Consultancy Services Order;
- (d) to make timely decisions where approvals or consents are reasonably sought by the Provider in performing the Services under this Consultancy Services Order;
- (e) to pay the Charges; and
- (f) to use its best efforts to resolve any dispute directly with the Provider before

involving the CoE in accordance with clause 13.

6. Resourcing

6.1 General requirements

The Provider will provide and maintain sufficient resources (including human resources, equipment, telecommunications connectivity, premises and other facilities) to enable it to perform its obligations on time and otherwise in accordance with this Consultancy Services Order.

6.2 Provider's Nominated Personnel

- (a) The Participating Agency may, in this Consultancy Services Order, nominate specific Personnel (Nominated Personnel) to be the primary providers or to supervise the delivery of the Services.
- (b) If any Nominated Personnel nominated in this Consultancy Services Order are not available to provide or supervise the Services requested, the Provider must immediately notify the Participating Agency and provide details of other Personnel (if any) with the necessary skills and experience to provide or supervise the Services requested pursuant to this Consultancy Services Order.
- (c) Notice given under clause 6.2(b) must specify the period for which the Nominated Personnel will continue to be unavailable.
- (d) Upon receipt of notice under clause 6.2(b), the Participating Agency must notify the Provider whether the replacement Personnel are acceptable.
- (e) The Participating Agency is under no obligation to accept any replacement Personnel and, if it does not approve the replacement Personnel, the Provider may not commence or continue providing the Services.

6.3 Personnel

- (a) The Provider will ensure that all of its Personnel who are engaged in the performance of the Provider's obligations under this Consultancy Services Order:
 - (i) have the requisite skills, expertise, qualifications and experience;
 - (ii) have, before performing any such obligations, obtained all security clearances and passed all probity checks required by, or necessary to provide the Services to, the Participating Agency;
 - (iii) comply with all health, safety, security and other policies, codes of conduct, procedures and reasonable directions as may be reasonably required by the Participating Agency from time to time; and

- (iv) will carry out their respective duties with due care, skill and diligence.
- (b) The Participating Agency will notify the Provider of any security clearances and probity checks required by, or necessary to provide the Services to, the Participating Agency.

6.4 Subcontracting

- (a) The Provider will not subcontract the performance of all or part of the Services or any of its other obligations under this Consultancy Services Order, except with the prior written consent of the Participating Agency.
- (b) The Provider is solely responsible for the selection of each Subcontractor and must ensure that each Subcontractor is creditworthy, qualified and has the relevant experience to perform the work it is required to carry out for the Provider.
- (c) To the extent permitted by Law, the Provider is and remains fully responsible for any act or omission of any Subcontractor.
- (d) The Provider must ensure that each Subcontract contains obligations on the Subcontractor that are consistent with the relevant terms of this Consultancy Services Order, including in relation to clauses 5.1 (Provider responsibilities), 6.3(a) (Personnel), 10 (Confidentiality), 11 (Intellectual Property) and 14 (Termination) and Schedule 3 (Performance Measurement), together with clause 15 (Audit) of the Services Agreement.
- (e) If, in the Participating Agency's reasonable opinion, a Subcontractor is:
 - (i) materially not performing in accordance with the terms of this Consultancy Services Order, the Participating Agency may, by notice to the Provider, require the Provider to procure that the Subcontractor performs the relevant obligations within 10 Business Days, failing which the Participating Agency may, by notice to the Provider, require the Provider to remove that Subcontractor; or
 - (ii) a material threat to the health, safety or security of the Personnel or property of the Participating Agency, or has breached security or confidentiality requirements of this Consultancy Services Order, the Participating Agency may, by notice to the Provider, require the Provider to remove that Subcontractor,

and the Provider will ensure the immediate removal of that Subcontractor.

7. Changes

7.1 Change procedure

The Participating Agency may agree any variations to this Consultancy Services Order with the Provider using Part C of the Consultancy Services Order.

8. Price and payment

8.1 Calculation of Charges

The Charges will be calculated in accordance with the terms of Schedule 2 (Pricing).

8.2 Participating Agency to pay for Services

- (a) The Participating Agency will pay the Provider the Charges applicable to any Services procured by the Participating Agency on the terms of this clause 8.
- (b) The Charges and Administration Fee comprise the total amount payable by the Participating Agency for the Services.

8.3 Invoicing and payment

Except as otherwise provided in Schedule 2 (Pricing) or as agreed with the Participating Agency in this Consultancy Services Order, the Provider will invoice the Participating Agency (or, if the Participating Agency has instructed the Provider in writing, the third party agent) for the Charges and the Participating Agency will pay those Charges, in accordance with the following terms:

- (a) the Provider will render one itemised invoice to the Participating Agency at the end of each month during the Term for all Services performed during that month specifying (as applicable):
 - (i) the nature and amount of the Fees or other applicable fees and fee structures;
 - (ii) the Personnel and their applicable Rate;
 - (iii) the hours billed (by Personnel and in the aggregate);
 - (iv) the nature and amount of any Expenses (including any third party charges to be passed on to the Participating Agency);
 - (v) if applicable, the amount representing the Administration Fee;
 - (vi) how much of the Estimate or Quote has been used;
 - (vii) a brief description of the Services provided during that month; and
 - (viii) any other matters the Participating Agency may reasonably request;
- (b) each correctly rendered invoice will be payable on or before the 20th day of the month following the month in which the invoice was received;
- (c) the Participating Agency will have no obligation to pay any Charges which are invoiced more than 90 days after the

RELEASED UNDER INFORMAL 982

date that such amount was required to be invoiced pursuant to this clause 8.3; and

- (d) the Provider may only invoice the Participating Agency for any Expenses at the cost actually incurred by the Provider.

8.4 Invoice disputes

If the Participating Agency or the Provider disputes an invoice:

- (a) it may withhold the disputed sum and, if applicable, associated Administration Fee until the dispute is resolved;
- (b) the dispute will be resolved in accordance with clause 13; and
- (c) it will pay the undisputed portion in accordance with clause 8.3.

The Provider will not be excused from performing its obligations under this Consultancy Services Order while an invoice is disputed by the Participating Agency.

8.5 Taxes

- (a) Except for any GST payable by the Participating Agency, any present or future tax, levy, impost, duty, charge, assessment or fee of any nature (including applicable interest and penalties) payable in connection with this Consultancy Services Order under any Law is to be paid by the Provider and not passed on to the Participating Agency unless otherwise expressly agreed in writing by the Participating Agency.
- (b) The Participating Agency may deduct from any payment to be made to the Provider any withholding taxes or other deductions that it is required by Law to make.

8.6 Administration Fee

In relation to the sub-categories for which the Provider has been appointed as a Tier 1 or Tier 2 Provider, the Provider will ensure that each invoice issued to the Participating Agency for the Charges includes, in addition to the Charges, a separate amount equal to 1% of the Fees (excluding GST) (the Administration Fee).

8.7 Suspension of payment

- (a) Without prejudice to any other right or remedy that may be available to the Participating Agency, the Participating Agency may suspend payment of all or any part of the Charges if the CoE has notified the Provider that the Provider is in Material Breach, until that Material Breach is remedied.
- (b) If the Material Breach is not capable of remedy the Participating Agency and the Provider agree to treat the Charges as being in dispute and clause 14 will apply.

9. Warranties

9.1 General warranties

Each party represents, warrants and undertakes that:

- (a) it has full power, capacity and authority to execute, deliver and perform its obligations under this Consultancy Services Order;
- (b) it has, and will continue to have, all the necessary consents, permissions, licences and rights to enter into and perform its obligations under this Consultancy Services Order; and
- (c) this Consultancy Services Order constitutes its legal, valid and binding obligations and is enforceable in accordance with its terms.

9.2

Provider's warranties

The Provider represents, warrants and undertakes that:

- (a) It will perform its obligations under this Consultancy Services Order with due care, skill, promptness and diligence at all times;
- (b) it has, and will have throughout the Term, sufficient Personnel to supply the Services and to perform its other obligations under this Consultancy Services Order;
- (c) it, and each of its Personnel engaged in the performance of the Services, has, and will have throughout the Term, the necessary expertise and all necessary governmental, regulatory or other approvals, permissions, consents, licences, qualifications, accreditations and requirements to provide the Services and perform its other obligations under this Consultancy Services Order;
- (d) it will comply with the requirements of all Laws as they relate to the provision of Services by the Provider;
- (e) the possession or use of any item of Intellectual Property supplied or licensed by it, or the use of any item of Intellectual Property by it to perform its obligations under this Consultancy Services Order, will not infringe the rights of any third party;
- (f) all Documentation (and any other information or advice supplied by it to the Participating Agency) and any information and data reported to the CoE will be accurate, complete and (as applicable) Fit for Purpose;
- (g) there are no existing agreements, undertakings or arrangements which prevent it from entering into this Consultancy Services Order, or which would impede the performance of its obligations under this Consultancy Services Order, or that it would breach by entering into this Consultancy Services Order;
- (h) it is not (and nor is any of its Personnel) a party to any litigation, proceedings or disputes which could adversely affect its ability to perform its obligations under this Consultancy Services Order; and
- (i) it has not offered any inducement in connection with the entering into or

negotiation of this Consultancy Services Order, and will not offer any inducement in connection with the supply of Services to the Participating Agency.

9.3 Continuous application

The warranties, representations and undertakings set out in clause 9.2 will be deemed to be given by the Provider continuously throughout the Term.

9.4 Notification

Each party will promptly notify the other if at any time during the Term it breaches any of the warranties, representations and undertakings in this clause 9.

9.5 Other warranties excluded

All warranties (statutory, express or implied) which are not expressly referred to in this Consultancy Services Order are excluded to the fullest extent permitted by Law.

10. Confidentiality

10.1 Protection of Confidential Information

(a) Subject to clauses 10.1(c) and 10.2, the Provider and the Participating Agency will treat as confidential and not disclose to any third party nor use for its own benefit any Confidential Information that is the Confidential Information of the other.

(b) The Provider will:

- (i) ensure that all Confidential Information of the Participating Agency (and any backup archives containing such Confidential Information) in the possession or control of the Provider from time to time is kept secure and managed and protected and only disclosed or otherwise dealt with in accordance with this Consultancy Services Order;
- (ii) not use any Agency Information for its own purposes or for any purposes different from those contemplated by this Consultancy Services Order; and
- (iii) advise the CoE in writing if any Confidential Information of the Participating Agency will be transferred or stored outside New Zealand before such information is transferred and will confirm that the requirements of this clause 10.1 will be met while such Confidential Information is stored outside New Zealand.

(c) Clause 10.1(a) does not prevent the disclosure of Confidential Information:

- (i) if that information was known, or becomes known, to the public through no act or default of the recipient;
- (ii) that the recipient is required by Law or parliamentary practice (including parliamentary

questions) to disclose, or to a Select Committee or to a Minister of the Crown, so long as the recipient provides notice of the required disclosure promptly upon receipt of notice of the required disclosure (if it is permitted to do so by Law);

(iii) that was lawfully known to the recipient prior to the date it was received;

(iv) that becomes available to the recipient from a source other than a party to this Consultancy Services Order, provided that the recipient has no reason to believe such source is itself bound by an obligation of confidence to the person that disclosed that information or is otherwise prohibited under Law from disclosing such information;

(v) to any Professional Adviser for the purposes of rendering professional services to a party in relation to this Consultancy Services Order;

(vi) to the extent that such disclosure is authorised by this Consultancy Services Order; or

(vii) if such disclosure is approved for release with the consent of the party from whom the Confidential Information is first received.

10.2 Limited disclosure

(a) The Provider may, subject to clause 10.2(d), disclose the Confidential Information of the Participating Agency to its Subcontractors, Personnel, Related Entities and Professional Advisers who need to know the same for the sole purpose of enabling the Provider to perform its obligations and exercise its rights under this Consultancy Services Order.

(b) The Participating Agency may, subject to clause 10.2(d), disclose the Confidential Information of the Provider to its third party suppliers, Personnel and Professional Advisers and any other Participating Agencies (including the CoE) who need to know the same in connection with the Services.

(c) The Provider will not disclose the Participating Agency's Confidential Information to any of its Subcontractors, Related Entities or Professional Advisers, and the Participating Agency will not disclose the Provider's Confidential Information to any of its third party suppliers or Professional Advisers, unless the recipient has given a written confidentiality undertaking to the disclosing party in terms substantially similar to those set out in this clause 10.

(d) Any undertaking given pursuant to clause 10.2(c) will be provided to the other party to this Consultancy Services Order on request.

11. Intellectual Property

11.1 Intellectual Property owned by Provider

- (a) The Participating Agency acknowledges that all:
 - (i) Intellectual Property held by the Provider before the Commencement Date;
 - (ii) Intellectual Property developed independently from this Consultancy Services Order by the Provider, and that is not developed, commissioned or created under or in connection with this Consultancy Services Order; and
 - (iii) adaptations and modifications to the Intellectual Property described in clauses 11.1(a)(i) and (ii),

remains the Provider's sole and exclusive property (Provider IP).

- (b) To the extent that the Participating Agency needs to use any of the Provider IP to receive the full benefit of the Services, the Provider grants to the Participating Agency a royalty-free, non-exclusive licence (including, if agreed in this Consultancy Services Order, the right to sublicense) to use, copy, modify and distribute during the Term any Provider IP provided to the Participating Agency by or on behalf of the Provider.

11.2 Intellectual Property owned by Participating Agency

- (a) The Provider acknowledges that the Participating Agency or its licensor has, and continues to have, sole and exclusive ownership of all Intellectual Property rights in all of the Agency Information together with all adaptations and modifications of such Agency Information (Pre-contract Participating Agency IP).
- (b) All Intellectual Property created or developed by the Provider or its employees or Subcontractors in performing the Services and developing the Documentation will be owned by the Participating Agency from the date the Intellectual Property is created or developed (Post-contract Participating Agency IP and, together with the Pre-contract Participating Agency IP, the Participating Agency IP).
- (c) If the Provider (or any of its Subcontractors) has under any Law any right in or claim to any of the Participating Agency IP or holds any of the Participating Agency IP, the Provider (by itself and for its Subcontractors):
 - (i) assigns to the Participating Agency all of its rights, title and interest in and to the Participating Agency IP from the date it was created or developed; and

- (ii) waives all right of lien or similar rights as may now or later be claimed in the Participating Agency IP; and
- (iii) waives all of its moral rights under Part 4 of the Copyright Act 1994 in the Participating Agency IP,

and the Provider will sign all documents and do all acts and things that are necessary to give effect to this clause 11.2(c).

- (d) To the extent that the Provider needs to use any of the Participating Agency's IP for the purpose of performing its obligations under this Agreement, the Participating Agency grants to the Provider, subject to any written direction given by the Participating Agency, of a royalty-free, non-exclusive, non-transferable licence to use and store the Participating Agency's IP for the sole purpose of performing its obligations under this Consultancy Services Order during the Term.

11.3 Intellectual Property owned by third parties

- (a) To the extent that the Provider needs to use any Intellectual Property held or owned by a third party (Third Party IP) in performing the Services under this Consultancy Services Order, the Provider will use its best endeavours to obtain the fullest rights of use and licence of that Third Party IP (on terms and at a cost to be agreed with the Participating Agency) as are necessary for the performance of those Services for the benefit of the Participating Agency.
- (b) The Participating Agency acknowledges that the Provider may have limited ability to obtain rights and/or a licence to use any Third Party IP and, where the Provider, using its best endeavours, cannot obtain appropriate rights and/or a licence for the Participating Agency to use that Third Party IP, the warranty in clause 9.2(e) applies.

12. Liability

12.1 Indemnity

- (a) The Provider will, to the extent permitted by Law, indemnify the Participating Agency against all Losses suffered or incurred by the Participating Agency as a result of any:
 - (i) unlawful, malicious or negligent act or omission by the Provider;
 - (ii) personal injury, sickness, death or loss of, or damage to, tangible property due to an act or omission of the Provider; or
 - (iii) any other breach by the Provider of its obligations under this Consultancy Services Order.
- (b) The Provider will, subject to clause 12.1(c), indemnify the Participating Agency against all Losses suffered or incurred by the Participating Agency as a

result of any claim that the possession or use of any Intellectual Property supplied or licensed by the Provider, or the use of any Intellectual Property used to provide the Services, infringes any third party's rights.

- (c) The Provider will have no liability under clause 12.1(b) to the extent that any IP Claim arises from any:
- (i) modification by the Participating Agency of any Item of Intellectual Property supplied or licensed by the Provider without the approval of the Provider;
 - (ii) use by the Participating Agency of Intellectual Property supplied or licensed by the Provider for any purpose disallowed by this Consultancy Services Order or the applicable Intellectual Property licence (but only if the licence has been provided to the Participating Agency prior to such use); or
 - (iii) use of Intellectual Property used to provide the Services if and to the extent that Intellectual Property was supplied by the Participating Agency.

12.2 IP Claims

- (a) In the event of a claim under clause 12.1(b) (an IP Claim):
- (i) the Participating Agency will give the Provider notice of the IP Claim as soon as practicable and, to the extent permissible by Law, permit the Provider (at the Provider's cost) to handle all negotiations for settlement and to control and direct any litigation that may follow (Control of the IP Claim);
 - (ii) If the Provider has Control of the IP Claim:
 - (A) the Participating Agency will provide all reasonable assistance to the Provider (at the Provider's cost) in the handling of any negotiations and litigation; and
 - (B) the Provider will keep the Participating Agency informed of the defence or negotiations of the IP Claim and diligently conduct any litigation or negotiations, using competent counsel and in a manner that does not adversely affect the name or reputation of the Participating Agency;
 - (iii) the Provider will not enter into any settlement or compromise in relation to the IP Claim without the prior written consent of the

Participating Agency (which will not be unreasonably withheld); and

- (iv) the Provider will notify the CoE of the IP Claim, and the outcome within 5 Business Days of the claim being concluded.
- (b) If any IP Claim disrupts the Participating Agency's use or enjoyment of a Service, the Provider will (unless otherwise requested by the CoE), at its own expense and at its option, immediately:
- (i) obtain for the Participating Agency the legal right to continued use of the infringing materials; or
 - (ii) replace, modify or resupply the infringing materials so that there is no further infringement, without adversely affecting the performance or functionality of those materials.

12.3 Maximum liability of Participating Agency

In addition to its obligation to pay the Charges, the maximum aggregate liability of the Participating Agency to the Provider under or in connection with this Consultancy Services Order will be, in respect of all Losses, limited to the total Charges paid and payable under this Consultancy Services Order.

12.4 Maximum liability of the Provider

The maximum liability of the Provider to the Participating Agency for all Losses under or in connection with this Consultancy Services Order in respect of all claims will not exceed:

- (a) in relation to the sub-categories for which the Provider has been appointed as a Tier 1 Provider, the greater of:
- (i) 10 times the total Charges paid and payable under this Consultancy Services Order;
 - (ii) \$5,000,000; and
 - (iii) any greater amount or multiple set out in this Consultancy Services Order;
- (b) in relation to the sub-categories for which the Provider has been appointed as a Tier 2 Provider, the greater of:
- (i) 10 times the total Charges paid and payable under this Consultancy Services Order;
 - (ii) \$2,000,000; and
 - (iii) any greater amount or multiple set out in this Consultancy Services Order; and
- (c) in relation to the sub-categories for which the Provider has been appointed as a Tier 3 Provider, the greater of:
- (i) 10 times the total Charges paid and payable under this Consultancy Services Order;
 - (ii) \$1,000,000; and

- (iii) any greater amount or multiple set out in this Consultancy Services Order.
- 12.5 **No double dipping**
A party to this Consultancy Services Order (or the CoE acting on behalf of the Participating Agency in accordance with the Services Agreement) cannot recover for the same Loss under both this Consultancy Services Order and the Services Agreement.
- 12.6 **Exclusions on liability**
The limitations on liability set out in clauses 12.3 and 12.4 will not limit the liability of:
- (a) the Provider under clauses 12.1(a) and 12.1(b) (other than in respect of negligent acts or omissions under clause 12.1(a)(i) and breach by the Provider of its obligations under this Consultancy Services Order under clause 12.1(a)(iii), which are subject to the limitations of liability in clauses 12.3 and 12.4);
 - (b) the Provider for any fraudulent act or omission; or
 - (c) either party for any breach of confidentiality.
- 12.7 **Categories of loss**
- (a) Irrespective of how liability arises, neither the Provider nor the Participating Agency will, under any circumstances, be liable for any indirect loss or damage (including consequential loss) arising under or in connection with this Consultancy Services Order.
 - (b) The Participating Agency will not, under any circumstances, be liable for any loss of profits or loss of revenue suffered by the Provider in connection with this Consultancy Services Order.
- 12.8 **Force majeure**
- (a) The Provider and the Participating Agency will not be liable to the other for any failure to perform its obligations under this Consultancy Services Order during the time and to the extent that such performance is prevented, wholly or substantially, by reason of any Force Majeure Event.
 - (b) The party subject to the Force Majeure Event (the non-performing party) must:
 - (i) notify the other party as soon as practicable after the Force Majeure Event occurs and provide full information concerning the Force Majeure Event, including the extent of its inability to perform, an estimate of the time likely to be required to overcome the Force Majeure Event and the steps the non-performing party will take to comply with clauses 12.8(b)(ii) and 12.8(b)(iii);
 - (ii) use all reasonable endeavours to mitigate and remedy the effect of the Force Majeure Event and

- minimise the impact of the event on the other party; and
- (iii) use all reasonable endeavours to perform its obligations under this Consultancy Services Order as far as is practicable,
- and the Participating Agency will not be required to pay Charges to the extent that the Provider fails to perform its obligations to the Participating Agency due to a Force Majeure Event.
- (c) If the non-performing party affected by the Force Majeure Event is the Provider, the Participating Agency may, to the extent that any Service requested by the Participating Agency under this Consultancy Services Order has not been delivered and delivery has, or will be, delayed by the Force Majeure Event, terminate this Consultancy Services Order, by notice to the Provider within five Business Days following receipt by the Participating Agency of notice of the Force Majeure Event, at no cost to the Participating Agency, subject to the Participating Agency paying for Services delivered up to the date of the Force Majeure Event.

12.9 **Insurance**

- (a) During the Term and for a period of two years following the termination of this Consultancy Services Order, the Provider will, at its own expense, ensure that it maintains adequate insurance in respect of its potential liability for loss or damage under this Consultancy Services Order in accordance with Industry Best Practice, but as a minimum the Provider must hold:
 - (i) professional indemnity insurance;
 - (ii) public liability insurance in respect of the Services provided under this Consultancy Services Order; and
 - (iii) other insurance to cover standard commercial risks (including in respect of Documentation which is the property of the Participating Agency and in the Provider's possession or control).
- (b) The Provider will, at the Participating Agency's request, promptly provide satisfactory evidence that it has complied with its obligations in this clause 12.9.

13. **Dispute resolution**

13.1 **Dispute**

In the event of any dispute, difference or question arising out of, or in connection with, this Consultancy Services Order or its formation (a dispute):

- (a) the Participating Agency and the Provider will each use its best efforts to

- resolve the dispute through good faith negotiations and informal dispute resolution techniques, and will continue to perform its obligations under this Consultancy Services Order as far as possible as if the dispute had not arisen, pending final settlement of the dispute; and
- (b) neither the Participating Agency nor the Provider will commence any formal proceedings relating to the dispute unless it has complied with clause 13.2.

13.2 Escalation

- (a) The Participating Agency and the Provider will each advise its respective Representative (or equivalent person) of a dispute on the day that the dispute arises.
- (b) The Representatives will use their best efforts to resolve the dispute in accordance with clause 13.1(a).
- (c) If the dispute is not resolved:
 - (i) within 10 Business Days, the dispute will be escalated to senior representatives of the Provider and the Participating Agency with delegated authority to resolve the dispute; and
 - (ii) in relation to the sub-categories for which the Provider has been appointed as a Tier 1 and Tier 2 Provider, within a further 10 Business Days, the dispute will be escalated to the CoE's Manager, All-of-Government Contracts and the Provider's Chief Executive.

13.3 Mediation

- (a) If a dispute is not resolved under clause 13.2, either party may, by written notice to the other, refer the dispute to mediation, or they may agree in writing to refer the dispute to mediation.
- (b) The mediation will be conducted by a single mediator in accordance with the terms of the Resolution Institute Standard Mediation Agreement and at a fee to be agreed by the parties.
- (c) If the parties fail to agree on the identity of the mediator and/or the mediator's fee within five Business Days of referral of the dispute to mediation, the mediator will be chosen, and the mediator's fee determined, by the chairperson for the time being of Resolution Institute (or his or her nominee).

13.4 Urgent relief

Nothing in this clause 13 will preclude either party from taking immediate steps to seek urgent relief before a New Zealand court.

14. Termination

14.1 Termination of Consultancy Services Order

The Participating Agency may terminate this Consultancy Services Order:

- (a) for convenience by giving the Provider at least one month's prior written notice;
- (b) by notice to the Provider with immediate effect on the date of termination specified in that notice, if the Provider commits a Material Breach which is:
 - (i) not capable of being remedied (and, for the avoidance of doubt, paragraphs (a) and (b) of the definition of "Material Breach" are deemed incapable of being remedied), or
 - (ii) capable of being remedied but which is not remedied to the satisfaction of the Participating Agency within 10 Business Days following the date of receipt by the Provider of the Participating Agency's notice of the Material Breach;
- (c) in accordance with clause 4.1(e) (Conflict of Interest); or
- (d) in accordance with clause 12.8(c) (Force Majeure Event).

14.2 Consequences of termination or expiry

- (a) In the event of termination or expiry of this Consultancy Services Order, the Participating Agency will not be obliged to make any payment to the Provider except for any Charges payable for Services supplied pursuant to this Consultancy Services Order before the effective date of expiry or termination.
- (b) Termination or expiry will not, unless otherwise provided in this Consultancy Services Order, affect:
 - (i) any rights and remedies available to either party which have accrued up to and including the date of termination or expiry; and
 - (ii) the provisions of this Consultancy Services Order which expressly, or by their nature, survive termination or expiry, including clauses 15 (Entire agreement), 10 (Confidentiality), 11 (Intellectual Property), 12 (Liability), 13 (Dispute Resolution), 14.2 (Consequences of termination or expiry) and 16 (General) and Schedule 1 (Definitions);
 - (iii) the continued application of clauses of the Services Agreement which expressly, or by their nature, are intended to continue to apply to this Consultancy Services Order after termination or expiry of this Consultancy Services Order, including clauses 1.4 (Precedence) and 15 (Audit).
- (c) After expiry or termination of this Consultancy Services Order for any reason, each party will, within five Business Days of receiving notice from

the other party, return all Documentation, Confidential Information or other property belonging to the other party (or destroy such Confidential Information, if requested), except if such Documentation, Confidential Information or other property is required to be retained by any Law.

15. Entire agreement

15.1 Entire agreement

- (a) This Consultancy Services Order is intended to be read in conjunction with the Services Agreement. The provisions of the Services Agreement (not already included in this Consultancy Services Order) which confer rights, obligations or benefits on the parties or the CoE in respect of this Consultancy Services Order are intended to apply to this Consultancy Services Order.
- (b) Subject to clause 15.1(a), no other terms or conditions, including any conditions of sale, invoices or any other communication not included in this Consultancy Services Order (Communication), will be incorporated into this Consultancy Services Order, even if at some later date the other party (including, in the case of the Participating Agency) signs or otherwise purports to accept those terms and conditions or the terms of that Communication.
- (c) For the avoidance of doubt, and without limiting clauses 15.1(a) and 15.1(b):
 - (i) any Communication which is expressed or intended to operate as an indemnity, warranty, representation, undertaking, condition or other term of such a nature is hereby disapplied and excluded from this Consultancy Services Order; and
 - (ii) any part of this Consultancy Services Order which describes the nature, scope, price or manner of delivery of Services will, subject to clause 15.1(c)(i), form part of this Consultancy Services Order, but only to the extent that it does not conflict with any other part of this Consultancy Services Order.

16. General

16.1 Interpretation

The rules of Interpretation set out in clause 19.1 of the Services Agreement apply to this Consultancy Services Order.

16.2 Relationship of the parties

Nothing expressed or implied in this Consultancy Services Order will be deemed to constitute either party as the partner, agent, or joint venturer of the other party.

16.3 Costs

A party who has an obligation to do anything under this Consultancy Services Order will perform that obligation at its own cost, unless a

term of this Consultancy Services Order expressly provides otherwise.

16.4 Assignment

Neither party may assign, novate, transfer or otherwise dispose of the whole or any part of its rights and obligations under this Consultancy Services Order without first obtaining the other party's consent (which will not be unreasonably withheld or delayed).

16.5 Public disclosures

Subject to clause 10, all public disclosures by the Provider relating to this Consultancy Services Order, including the fact of its existence (but not including any announcement intended solely for internal distribution or any disclosure required by legal, accounting or regulatory requirements), will be co-ordinated with, and must first be approved in writing by, the Participating Agency prior to release.

16.6 Notices

- (a) Unless otherwise specified in this Consultancy Services Order, each notice or other communication under this Consultancy Services Order will be made in writing and delivered by post, personal delivery or email to the addressee at the addressee's postal address, physical address or email address (as applicable) and marked for the attention of the person or office holder (if any) from time to time designated for that purpose by the addressee.
- (b) The Provider's postal address, physical address and email address is set out in the Provider Database and may be amended by the Provider at any time.
- (c) The Participating Agency's postal address, physical address and email address is as notified by the Participating Agency to the Provider and may be amended by the Participating Agency at any time.
- (d) A notice or other communication will be deemed to be received:
 - (i) in the case of a letter sent to the addressee's postal address, on the third Business Day after posting;
 - (ii) in the case of personal delivery, on receipt; and
 - (iii) in the case of an email, at the time the email leaves the communications system of the sender, provided that the sender:
 - (A) does not receive any error message relating to the sending of the email at the time of sending; and
 - (B) has obtained confirmation that the email has been delivered to the recipient (which confirmation may be in the form of an automated delivery receipt from the

communications system of the recipient),

on the Business Day on which it is dispatched or, if dispatched after 5 p.m. (in the place of receipt), on the next Business Day after the date of dispatch.

16.7 Severability

If any term or provision of this Consultancy Services Order is held to be illegal, invalid or unenforceable it will be severed from this Consultancy Services Order without affecting the legality, validity or enforceability of the remaining provisions.

16.8 Waiver

- (a) Neither party will be deemed to have waived any right under this Consultancy Services Order unless the waiver is in writing and signed by the parties.
- (b) Any failure or delay by a party to exercise any right or power under this Consultancy Services Order will not operate as a waiver of that right or power.
- (c) Any waiver by a party of any breach, or failure to exercise any right, under this Consultancy Services Order will not constitute a waiver of any subsequent breach or continuing right.

16.9 Remedies cumulative

Except as is expressly stated otherwise in this Consultancy Services Order:

- (a) the rights, powers and remedies provided in this Consultancy Services Order are cumulative and are not exclusive of any rights, powers or remedies provided by Law or under this Consultancy Services Order; and
- (b) the exercise of any rights, powers and remedies provided in this Consultancy Services Order will not prejudice the exercise of any other right, power or remedy under this Consultancy Services Order or existing at Law.

16.10 Counterparts

This Consultancy Services Order may be signed in two counterparts, each of which will be deemed an original, but both of which together are to constitute a single instrument.

16.11 Governing law and jurisdiction

- (a) This Consultancy Services Order is governed by, and will be construed in accordance with, the laws of New Zealand.
- (b) Subject to clause 13, each party irrevocably submits to the exclusive jurisdiction of the New Zealand courts for the purpose of hearing and determining any dispute under, or in connection with, this Agreement.

SCHEDULE 1: DEFINITIONS

In this Consultancy Services Order, unless the context otherwise requires:

Administration Fee means the amount referred to in clause 8.6;

Agency Information means all:

- (a) information and records belonging to the Participating Agency that are supplied to or collected by the Provider for the purpose of enabling the Provider to perform its obligations under this Consultancy Services Order;
- (b) compilations of data created by a Participating Agency or the Provider for the purposes of this Consultancy Services Order; and
- (c) legal names, logos, trademarks, brands or images of the Participating Agency, including all related Intellectual Property of the Participating Agency and the New Zealand Coat of Arms or any other coat of arms or emblem used by the Participating Agency,

but excluding the Provider's working papers;

Annexure means any document physically attached to a Schedule and identified as such and any other document incorporated by reference in any part of this Consultancy Services Order (other than an Annexure);

Appointment Letter means the letter issued to the Provider by the CoE, as amended or reissued from time to time, confirming (among other things) the Provider's appointment as an All-of-Government provider of consultancy services and detailing the terms and conditions of the appointment (including the Services and the applicable Tier(s));

Business Day means any day of the year other than a Saturday, a Sunday or a public holiday (as defined in section 44 of the Holidays Act 2003) observed at the location of the Participating Agency;

Charges means the amount payable by Participating Agencies for Services and includes Fees and Expenses, as described in Schedule 2 (Pricing) and agreed in this Consultancy Services Order;

CoE means the Ministry of Business, Innovation and Employment, the Centre of Expertise for Consultancy Services;

Commencement Date is the date on which this Consultancy Services Order is signed by both parties or, if two dates, the later date;

Confidential Information means:

- (a) all information and trade secrets already communicated or subsequently communicated under or in connection with this Consultancy Services Order, including information obtained during the negotiation of this Consultancy Services Order or in the performance of this Consultancy Services Order and information on the Provider Database;
- (b) any information about the business or property of either party including any information:
 - (i) relating to the financial position of that party;
 - (ii) concerning that party's suppliers and customers; or
 - (iii) relating to that party's internal management, structure, Personnel or strategies;
- (c) the terms of this Consultancy Services Order; and
- (d) Agency Information;

Conflict of Interest means any matter, circumstance, interest or activity of the Provider, its Personnel or Subcontractors, arising by whatever means that directly or indirectly conflicts with:

- (a) the duties of the Provider and any of its Personnel or Subcontractors to the Participating Agency; or
- (b) the interests of the Participating Agency in relation to this Consultancy Services Order or otherwise in respect to the provision of consultancy services to the Participating Agency either before or after the Commencement Date;

or otherwise impairs or might appear to impair the ability of the Provider (or any of its Personnel or Subcontractors) to provide the Services to the Participating Agency under this Consultancy Services Order diligently, independently, impartially and in the best interests of the Participating Agency;

Consultancy Services Order means this service order relating to the supply of Services issued by the Participating Agency;

Contract Quarter means a period of three consecutive months commencing on 1 January, 1 April, 1 July or 1 October;

Control means, in relation to the Provider or any ultimate or intermediate holding company or Holding Entity of the Provider, the power to:

- (a) manage, directly or indirectly, the operation of the business; or
- (b) control, directly or indirectly, the composition of the board of directors or board of management or equivalent governing body,

of the Provider or such ultimate or intermediate holding company or Holding Entity, whether through the ownership of voting securities, by contract or otherwise, and for these purposes "holding company" will have the same meaning as in section 5 of the Companies Act 1993;

Documentation means all advice, communications, documentation (including information on the Provider Database) and reports (whether in paper, electronic, audio or audio-visual format) relating to, or provided as part of, the Services together with additions, modifications to, and replacements of, that documentation, but excludes the Provider's working papers;

Estimate means an estimate of the total Charges for the Services required by the Participating Agency;

Expense means any actual and reasonable out-of-pocket costs incurred by the Provider in the delivery of the Services and agreed to in this Consultancy Services Order, and includes any freight and related costs, travelling and incidental expenses and other costs, disbursements, fees, charges and expenses directly or indirectly incurred by the Provider;

Fees means the amount payable by the Participating Agency to the Provider for its time spent delivering the Services calculated on the basis of the Rates, excluding Expenses;

Fit for Purpose means, in relation to any Service or Documentation to be provided by the Provider to the Participating Agency, that such Services or Documentation are, in descending order of priority, fit for the purpose(s):

- (a) expressly made known in writing by the Participating Agency to the Provider (including in this Consultancy Services Order); or
- (b) for which the Provider, given its knowledge of the Participating Agency and understanding why the

Services or Documentation are required, has reason to expect such Services or Documentation to be used;

Force Majeure Event means an event or circumstance beyond the reasonable control of either party which makes it impossible or illegal to perform, or prevents compliance with, or the performance of, a party's obligations under this Consultancy Services Order, including:

- (a) fire, floods, tsunamis, storms, tempest, earthquake or other act of God;
- (b) any act of a public enemy, war, riot, or act of civil or military authority;
- (c) nuclear, chemical or biological contamination; and
- (d) subject to paragraph (g) of this definition, any act of a third party engaged in subversive or terrorist activity or sabotage,

but does not include an event to the extent that:

- (e) the effect of that event could have been substantially prevented, avoided or overcome or mitigated by:
 - (i) implementation of any contracted business continuity or disaster recovery service, or any contingency plans agreed between the parties or which a party has represented it has in place; or
 - (ii) exercising a reasonable standard of care; or
 - (iii) using information provided by the other party or which is available in the public domain; or
- (f) it is an event for which the party affected is or was directly responsible; or
- (g) that event is constituted or caused by any act or omission of Personnel or a Subcontractor unless and to the extent that the Personnel or Subcontractor was itself affected by an event, which if it occurred in relation to either party would have been a Force Majeure Event; or
- (h) that event is constituted or caused by an Insolvency Event or the insolvency of a Subcontractor or lack of funds for any reason;

GST means goods and services tax under the Goods and Services Tax Act 1985;

Holding Entity means a trust, unit trust, partnership, limited partnership, unincorporated joint venture or other body corporate or unincorporated body of persons that Controls the Provider, and includes any natural person that Controls the Provider;

Industry Best Practice means the high professional standard that would reasonably be expected from a prudent and experienced provider of consultancy services in New Zealand having regard to market practice at the relevant time;

Insolvency Event means, in relation to the Provider:

- (a) the presentation of an application for its liquidation that is not discharged within 30 days of its filing or which is not demonstrated to the Participating Agency prior to the expiry of that 30 day period as being an application that is frivolous or vexatious;
- (b) any step taken in or toward the making of any compromise, proposal or deed of arrangement with all or some of its creditors;
- (c) the appointment of a liquidator, receiver, statutory manager, administrator or similar official, to it;
- (d) the suspension or threatened suspension by it of the payment of its debts;

- (e) cessation by it of a whole or any relevant part of its business in New Zealand;
- (f) the enforcement of any security against the whole or a substantial part of its assets; or
- (g) any other insolvency event or proceedings analogous to any of the foregoing occurring in any relevant jurisdiction;

Intellectual Property means copyright, all rights in relation to inventions (including patents), registered and unregistered trademarks, registered and unregistered designs, trade or other proprietary rights or rights derivative of those rights (including licence rights) anywhere in the world as well as any other rights in intellectual property which are recognised or protected under Law;

Law means:

- (a) any statute, regulation, bylaw, ordinance or subordinate legislation in force from time to time to which a party is subject;
- (b) the common law and the law of equity as applicable to the parties from time to time;
- (c) any binding court order, judgment or decree;
- (d) any applicable industry code of practice or conduct, convention, policy, rule or standard to which a party is bound; or
- (e) any applicable direction, policy, permission, consent, licence, rule or order that is binding on a party and that is made or given by any governmental or regulatory body having jurisdiction over a party or any of that party's assets, resources or business,

in any jurisdiction that is applicable to this Consultancy Services Order;

Losses means liabilities, expenses, losses, damages and costs (including legal costs on a full indemnity basis);

Material Breach means any material breach by the Provider of the terms of this Consultancy Services Order or the occurrence of any event having a material effect on the ability of the Provider to perform its obligations under this Consultancy Services Order (other than a Force Majeure Event), including:

- (a) the occurrence of an Insolvency Event in relation to the Provider or the likely occurrence of an Insolvency Event;
- (b) the occurrence of a change in Control of the Provider or any ultimate or intermediate holding company or Holding Entity of the Provider that the CoE has not previously approved (acting reasonably);
- (c) any representation or warranty made by the Provider in terms of this Consultancy Services Order being found to be untrue or incorrect; and
- (d) any failure on the part of the Provider to comply with, observe or perform any of the terms of this Consultancy Services Order in circumstances where that contract breach or that contract breach together with other contract breaches is considered by the Participating Agency on reasonable grounds to cause the Provider to be unable or unwilling, or be likely to be unable or unwilling, to perform its obligations under this Consultancy Services Order;

Maximum Rates means the maximum Rates payable to the Provider for providing the Services, as recorded in the Provider Database, excluding Expenses;

Panel means the All-of-Government panel of providers who provide consultancy services to Participating Agencies,

including any sub-panel, as detailed on www.procurement.govt.nz;

Participating Agency means the Participating Agency that is a party to this Consultancy Services Order;

Participating Agencies means each of the CoE and every other Eligible Agency that is a party to the memorandum of understanding between the CoE and all other Participating Agencies relating to the management of their relationship with each other and with the Provider in relation to the Services, as amended from time to time;

Personnel includes partners, principals, directors, employees, agents, officers and individual independent contractors;

Professional Adviser means any accounting, legal, procurement or technical professional;

Provider Database means the IT platform described in Schedule 7 (Provider Database) to the Services Agreement;

Quote means a fixed price, capped price or other pre-agreed basis for establishing the Charges for Services required by the Participating Agency where the Provider is prevented from increasing the Charges without the prior written consent of the Participating Agency;

Rates means the rates (whether hourly, daily or weekly or other time-related basis) payable to the Provider for providing the Services, determined in accordance with Schedule 2 (Pricing), excluding Expenses;

Related Entity means a related company under the Companies Act 1993 (New Zealand) or a related body corporate under the Corporations Act 200, provided that any reference in the Companies Act 1993 to a "company" is deemed to include any partnership, body corporate, association or other entity, whether corporate or unincorporated, irrespective of the place of incorporation or registration of that partnership, body corporate, association or other entity;

Representative has the meaning given in paragraph 3.1 of Schedule 5 (Governance) to the Services Agreement);

Service Level means a required standard for the Provider's performance of its obligations under this Consultancy Services Order, as described in Schedule 3 (Performance Measurement);

Service Level Default means a failure by the Provider to meet one or more Service Levels;

Services means the consultancy services provided from time to time under the terms of this Consultancy Services Order;

Services Agreement means the All-of-Government services agreement relating to the supply of Tier 1 and 2 consultancy services between the CoE and the Provider;

Subcontractor means any person to whom the Provider has subcontracted any part of its obligations under this Consultancy Services Order or who is a supplier to the Provider in respect of this Consultancy Services Order and includes the employees and subcontractors of that person and Subcontract will be construed accordingly;

Term means the period commencing on the date that this Consultancy Services Order is signed by both parties and ending on the earlier of:

- (a) the date on which the Services are completed in accordance with this Consultancy Services Order; and
- (b) the date on which this Consultancy Services Order is terminated in accordance with its terms; and

Tiers means any of Tiers 1 and Tiers 2 for which members of the Panel are appointed and, in respect of the Provider, means the Tier(s) the Provider is appointed to as detailed in the Appointment Letter.

SCHEDULE 2: PRICING

1. Introduction

This Schedule sets out general principles underlying the Charges.

2. Principles

2.1 Participating Agency will only pay for Services ordered

- (a) The Provider will invoice the Participating Agency for the Charges in accordance with clause 8.3 of this Consultancy Services Order.
- (b) The Participating Agency will only pay for Services that it orders in accordance with this Consultancy Services Order.

2.2 No minimum volume

The Participating Agency is not required to meet a minimum aggregate expenditure or volume level for any Services.

2.3 No interest

No interest will be payable on any amount due to the Provider under this Consultancy Services Order.

2.4 Rates

- (a) The Fees are calculated on the Rates, being either the Rates that are recorded on the Provider Database or, subject to paragraph 3, a different Rate as negotiated between the Provider and Participating Agency and recorded in this Consultancy Services Order.
- (b) The Maximum Rates are the maximum amounts payable by the Participating Agency for the Services.

3. Charges

The Charges payable by the Participating Agency for Services must not include any Fees invoiced at Rates higher than the Maximum Rates recorded in the Provider Database.

SCHEDULE 3: PERFORMANCE MEASUREMENT

1. Introduction

This Schedule describes, in relation to the sub-categories for which the Provider has been appointed as a Tier 1 and Tier 2 Provider:

- (a) the Service Levels; and
- (b) how performance against Service Levels will be measured and reported.

2. Service Levels

2.1 Format

Each Service Level is described in Annexure A using the following format:

Parameter	Description
Description	Description of what the Service Level will measure
Purpose	Why it is important to Participating Agencies that the Service Level is met
Calculation	Method for calculating the Service Level
Service Level	The performance standard that the Provider is required to meet or exceed

2.2 Service Levels must be met

- (a) At all times during the Term, the Provider will, in relation to the sub-categories for which the Provider has been appointed as a Tier 1 and Tier 2 Provider, perform its obligations to meet or exceed the Service Levels.
- (b) The Provider acknowledges that any failure to meet the Service Levels may have a significant impact on the Participating Agency.

2.3 Changes to Service Levels

- (c) From time to time during the Term, the CoE and the Provider may negotiate in good faith to add, delete or modify then-existing Service Levels to reflect changes in the Participating Agencies' requirements or objectives.
- (d) Any changes to Service Levels will be effected in accordance with clause 10 of the Services Agreement.

3. Performance measurement

3.1 Failure to meet Service Levels

If the Provider fails to achieve one or more of the Service Levels in any Contract Quarter in respect of this Consultancy Services Order, it will:

- (a) take such steps and do all things necessary, as soon as possible, to correct the failure; and
- (b) notify the Participating Agency of the reasons for the failure and the steps that the Provider is taking to ensure that the failure is not repeated; and
- (c) consider whether the Charges for the Services that are subject to the Service Level Default should be reduced to reflect the lower value of the Services provided.

Annexure A: Service Levels

Parameter	1. Services Fit for Purpose
Description	Were the Services subject to this Consultancy Services Order Fit for Purpose?
Purpose	To ensure Services provided are Fit for Purpose.
Calculation	The Participating Agency will advise whether the Services are Fit for Purpose as part of the Agency Satisfaction Survey.
Service Level	100% of Services delivered to the Participating Agency must be Fit for Purpose.

Parameter	2. Timely Performance of Services
Description	Did the Provider perform the Services subject to this Consultancy Services Order within the timeframe recorded in this Consultancy Service Order (or as amended by agreement from time to time)?
Purpose	To ensure on-time provision of Services requested under a Consultancy Services Order.
Calculation	The Provider is required to report on this metric as part of the reporting requirements in Schedule 6 (Reporting) to the Services Agreement.
Service Level	The Provider must deliver all Services subject to this Consultancy Services Order within the agreed timeframe for delivery recorded in this Consultancy Services Order including any variation to the timeframe recorded in Part D of this Consultancy Services Order.

Parameter	3. Services Performed to budget
Description	Were the Charges for the Services subject to this Consultancy Services Order within the Estimate or Quote recorded in this Consultancy Services Order?
Purpose	To ensure Services requested under a Consultancy Services Order are performed on or under the Provider's Estimate or Quote.
Calculation	The Provider is required to report on this metric as part of the reporting requirements in Schedule 6 (Reporting) to the Services Agreement.
Service Level	The Provider must deliver all Services subject to this Consultancy Services Order within the agreed Estimate or Quote recorded in this Consultancy Services Order including any variation to the Estimate recorded in Part D of this Consultancy Services Order.



Memo

To: Vicki Connor, Deputy Secretary, Organisational Performance

From: Chris Holland, Senior Analyst, Climate Directorate

CC: Teri Moon, Procurement,
Paul Alexander, Tamara Linnhoff, Climate Directorate

Date: 20 December 2017

Re: Approval to Appoint Supplier – Economic Impact Analysis of New Zealand’s potential 2050 emissions targets (0941-01-RFP)

Purpose

To gain your approval to appoint the preferred supplier to provide economic impact analysis of potential 2050 emissions targets.

Procurement Process and Outcome

1. A Request for Proposal (RFP) 0941-01-RFP was run and closed on Monday 18 December 2017. The RFP was sent to the following 8 suppliers:
 - Landcare Research
 - Resources for the Future (US)
 - Enviro Economics (Canada)
 - Infometrics
 - New Zealand Institute of Economic Research (NZIER)
 - Warwick McKibbin – (Australian National University)
 - Phillip Adams (Victoria University, Australia)
 - Ian Sue Wing (Boston University)
2. Responses were received from the following suppliers:
 - NZIER
 - Enviro economics
3. The Proposals received met all preconditions and were evaluated on their merits according to the following evaluation criteria:
 - 1) Proposed solution:

Remember to specify the Contract Number when saving documents into Te Puna

- Proposed solution is sound in its methodology and can demonstrate ability to achieve the desired outcomes"

2) Capability of the Respondent to deliver

- Can demonstrate a successful track record in delivering economic modelling in relation to the economic impacts of climate policies, with relevant references from three satisfied clients within the past 3 years, and in the case of workstream 2 modelling expertise in soft and hard linking national level models with other models including climate models and international economic models

- Can provide relevant new or innovative approaches aligned to the desired outcomes or our requirements (25%)

3) Demonstrates ability to:

- effectively communicate complex economic impact analysis in easily understood ways

- 'tell a story' about the modelling results and how these results were determined (10%)

4) Capacity of the Respondent to deliver

- Has suitably qualified resources available to deliver quality service within the specified timeframe

- No actual or perceived conflicts of interest without an acceptable mitigation strategy agreed by the Ministry."

5) Price:

- Rates must be competitive and offer overall value for money"

6) Contract:

- Respondent's willingness to meet the Proposed Contract terms and conditions.

4. The following people evaluated the responses:

- Tamara Linnhoff, Principal Analyst, MfE
- Ed Hearnshaw, Principal Analyst, MfE
- Chris Holland, Senior Analyst, MfE
- Anita King, Senior Analyst, Treasury
- Antonia Burbridge, Principal Analyst, MBIE

Phil Wiles, Acting Manager, MPI reviewed the proposals and provided comments, but was unable to participate in the selection meeting.

Conflict of Interest Disclosure Forms for the evaluation panel were completed and have been saved in Te Puna

5. A summary of the key features of the two proposals is as follows:

Both proposals received met the minimum requirements.

NZIER has a strong track record of delivering New Zealand specific analysis and modelling of the type required. Their proposal was strong on both the workstream 1 (domestic) and workstream 2 (international). Their proposal exceeded all the requirements of the RFQ and provided a considered and consistent approach to answering the questions posed in the RFQ. NZIER have partnered with a respected New Zealand expert in this field, to provide technical advice and oversight and to benchmark the results.

Enviro Economics is a well-respected, and has provided similar analysis in to the government in Canada and the US states. They submitted a bid for workstream 2 only. Their proposal was strong and would provide a technology rich model to understand the potential costs and benefits of a more ambitious 2050 emissions reduction target. However, the evaluation panel had concerns about Enviro Economics

Remember to specify the Contract Number when saving documents into Te Puna

ability to understand the New Zealand context in the time available, and the lack of details in the proposal about how they would account for the impacts of climate change in New Zealand counted against them.

The initial cost submitted by NZIER proposal was \$287,080. Following the evaluation meeting, we have had pre-contract discussions with NZIER to clarify the scope and relative priorities of the component workstreams. This has allowed NZIER to refine their proposal and better meet our requirements. The revised cost of NZIER's proposal is \$232,180 for both workstream 1 and 2, which is under the budget agreed in the Procurement Plan.

The evaluation panel believe this provides good value for money and is warranted given the compressive scope of the proposal, and the importance of the decisions this research will inform. For comparison the cost of the Enviro Economics bid was \$262,353 for workstream 2 alone. They did not bid for workstream 1.

6. As NZIER have a track record of successfully delivering research for both the Ministry and other government agencies, we are confident that they will deliver to the quality and deadlines required. Therefore we have not conducted any supplier reference checks.
7. Supplier Conflicts of Interest: NZIER have declared no conflicts of interest.
8. Based on the above evaluation NZIER is recommended as the supplier for these services.

Details of Contract and Budget

9. The proposed contract will start on 8 January 2018 and run for a term of 8 months with an end date of 1 August 2018
10. The anticipated value of the contract is \$232,180, which is below the approved budget in the procurement plan of \$280,000. The procurement plan envisaged that the results of the research would be required by August 2018, and allocated funding in across both 2017/18 and 2018/19.
11. Since the procurement plan was signed, further advice on the timescales required for drafting and enacting the Zero Carbon Bill have been provided. These mean all the majority of the research will need to be conducted in FY 17/18, with only a minor proportion of the work taking place in FY 18/19
12. The tighter timescales mean that the two workstreams of the research will be conducted concurrently. This was foreseen when the request for proposals was drafted and was known to potential suppliers responding to the request.

Recommendation

Following the procurement process documented above, we recommend the appointment of New Zealand Institute of Economic Research (NZIER).

N.B I confirm I have consulted with Teri Moon in procurement, who has confirmed that the process as detailed in this memo is in accordance with the Ministry's procurement policy and processes.

Approved By¹: (refer to the endnotes for the conditions of approval)

Name	Title	Date	Signature
------	-------	------	-----------

Remember to specify the Contract Number when saving documents into Te Puna

Vicki Connor	Dep Sec Operations	21-12-17	
--------------	--------------------	----------	--

Conditions of Approval

1. ¹ This Tender Recommendation has been approved as supporting the Ministry in achieving its stated objectives.
2. The budget required to deliver this project is available
3. The approver is satisfied the procurement process met the Ministry's Procurement Policy.
4. The risks, requirements, services, deliverables, standards, performance measures, timeframes, fees milestones, charges and payment terms are all documented clearly.

Next Steps

1. Draft the contract (using the template form agreed in the procurement plan)
2. Send draft contract to Legal for review (via legalhelp@mfe.govt.nz)
3. Send two original final contracts to supplier for signing. The supplier must return both signed contract documents to MfE (the business owner).
4. Business to have MfE delegated authority sign both contract documents (once all signatures on the contract, it is called an executed contract).
5. Provide both of the executed contracts together with the approved procurement plan, this approved memo (signed by the appropriate delegated authority) and the completed procurement checklist to the procurement administrator. Procurement will retain one executed contract and send the other executed contract (with the assigned contract number) to the supplier.

The above documents must be provided to procurement to ensure completion of the process and enable payment of supplier invoices.

RELEASED UNDER THE OFFICIAL INFORMATION ACT 1982

Cris Holland

PROCUREMENT DOCUMENT CHECKLIST

Please ensure you complete this checklist before bringing all original completed documents to Procurement for entering into FMIS **(this is to be printed on a separate page from the contract document)**

1. New Contracts

Low Value/Low Risk, Statement of Work, Independent Consultancy Agreement, External Supplier Agreement etc.

- Procurement plan;
- Approval memo (where required by Procurement);
- Legal review completed (No documentation required);
Name of solicitor Alice Ling
- 2 x signed contract documents (original signed documents required, not scanned, if contract value is over \$100K).

2. Variation to Contracts

Low Value/Low Risk, Statement of Work, Independent Consultancy Agreement, External Supplier Agreement etc.

- Approval memo;
- Legal review completed (No documentation required);
Name of solicitor _____
- 2 x signed variation documents (original signed documents required, not scanned, if contract value is over \$100K).

3. Procurement Administrator to complete

Is this a new supplier? Yes No

If yes then complete the following steps:

- NZ Companies register check
– print and attach certificate of incorporation
- Website check
– Board of Directors/Shareholder check
- Google search

RELEASED UNDER
THE OFFICIAL INFORMATION ACT 1982



Conflict of Interest and Confidentiality Agreement



Who and when?

Anyone involved in a procurement activity must complete this agreement before developing tender documents, joining an evaluation panel or making a decision. Before you complete this form, read the Quick-Guide: Conflicts of Interest.

Name:	Ed Hearnshaw
Position:	Principal Analyst
Organisation:	MfE
Tender:	Climate policy modelling
Role in the procurement activity:	Evaluation panel, co-author of RfP



"In a small country like ours, conflicts of interest in our working lives are natural and unavoidable. The existence of a conflict of interest does not necessarily mean that someone has done something wrong, and it need not cause problems. It just needs to be identified and managed carefully."
Controller & Auditor-General

Do you have any actual, potential or perceived conflicts of interest?

Do you have any personal interest in the purchasing decision?
(e.g. you own shares in a supplier or related company)

Yes No Potentially (tick 'potentially' if others could perceive you have a conflict)

Are you a relative or close friend of someone with a personal interest in the goods or services being purchased or who could be personally affected by the purchasing decision?
(e.g. a family member is an employee or shareholder of a supplier)

Yes No Potentially (tick 'potentially' if others could perceive you have a conflict)

Do you have any personal obligations, loyalties or bias that could influence the way you evaluate offers and recommend purchases?
(e.g. a close friendship with an employee of a supplier)

Yes No Potentially (tick 'potentially' if others could perceive you have a conflict)

Have you recently been offered any special discounts, gifts, trips, hospitality, rewards or favours by suppliers of the goods or services being purchased?
(e.g. free travel; free samples for your own use)

Yes No Potentially (tick 'potentially' if others could perceive you have a conflict)

Are you aware of anything that could give the appearance that you might be biased towards or against a particular supplier?
(e.g. you have expressed strong views about a supplier; you worked for a supplier; you use a supplier's corporate box at a sports event)

Yes No Potentially (tick 'potentially' if others could perceive you have a conflict)



Confidentiality responsibilities

All of the procurement project's discussions, meetings and material (written and electronic) are confidential and I agree to keep this information safe. I will not give this information to anyone outside the immediate tender team without prior approval from the Project Manager.

Restrictions on contact with suppliers

I agree that my contact with potential suppliers is restricted during the period of the tender. I understand that until the successful supplier has been announced I will not:

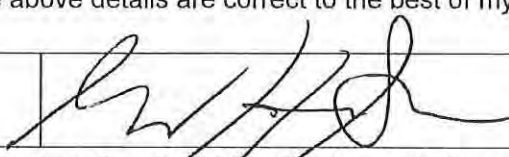
- pass information or make comments to them about the tender;
- receive any gift, gratuity, hospitality or any inducement from them;
- meet them or have any discussion about the tender.

I will pass any requests for information and meetings from potential suppliers to the Project Manager.

Declaration of conflict of interest

<p>Actual conflict of interest is where you already have a conflict.</p>	<p>If you have answered 'Yes' or 'Potentially' to any of the above questions, please provide details here. Otherwise sign the declaration below.</p>
<p>Potential conflict of interest is where the conflict is about to happen or could happen.</p>	
<p>Perceived conflict of interest is where other people might reasonably think you are not being objective.</p>	

Your declaration

<p>Declaration – I confirm that the above details are correct to the best of my knowledge and I make this declaration in good faith.</p>		
Signature:		Date: 15/12/2017
<p>Review by Procurement Team – I confirm that I have received this declaration and noted the contents. Where a conflict of interest is declared, complete the next part of the form.</p>		
Name:		
Signature:		Date:



Conflict of Interest and Confidentiality Agreement



Who and when?

Anyone involved in a procurement activity must complete this agreement before developing tender documents, joining an evaluation panel or making a decision. Before you complete this form, read the Quick-Guide: Conflicts of Interest.

Name:	Phil Wiles
Position:	Manager (Advisory) Land Policy
Organisation:	Ministry for Primary Industries
Tender:	CGE
Role in the procurement activity:	RfQ Assessment



"In a small country like ours, conflicts of interest in our working lives are natural and unavoidable. The existence of a conflict of interest does not necessarily mean that someone has done something wrong, and it need not cause problems. It just needs to be identified and managed carefully."

Controller & Auditor-General

Do you have any actual, potential or perceived conflicts of interest?

Do you have any personal interest in the purchasing decision?
(e.g. you own shares in a supplier or related company)

Yes No Potentially (tick 'potentially' if others could perceive you have a conflict)

Are you a relative or close friend of someone with a personal interest in the goods or services being purchased or who could be personally affected by the purchasing decision?

(e.g. a family member is an employee or shareholder of a supplier)

Yes No Potentially (tick 'potentially' if others could perceive you have a conflict)

Do you have any personal obligations, loyalties or bias that could influence the way you evaluate offers and recommend purchases?

(e.g. a close friendship with an employee of a supplier)

Yes No Potentially (tick 'potentially' if others could perceive you have a conflict)

Have you recently been offered any special discounts, gifts, trips, hospitality, rewards or favours by suppliers of the goods or services being purchased?

(e.g. free travel; free samples for your own use)

Yes No Potentially (tick 'potentially' if others could perceive you have a conflict)

Are you aware of anything that could give the appearance that you might be biased towards or against a particular supplier?

(e.g. you have expressed strong views about a supplier; you worked for a supplier; you use a supplier's corporate box at a sports event)

Yes No Potentially (tick 'potentially' if others could perceive you have a conflict)



Confidentiality responsibilities

All of the procurement project's discussions, meetings and material (written and electronic) are confidential and I agree to keep this information safe. I will not give this information to anyone outside the immediate tender team without prior approval from the Project Manager.

Restrictions on contact with suppliers

I agree that my contact with potential suppliers is restricted during the period of the tender. I understand that until the successful supplier has been announced I will not:


- pass information or make comments to them about the tender;
- receive any gift, gratuity, hospitality or any inducement from them;
- meet them or have any discussion about the tender.

I will pass any requests for information and meetings from potential suppliers to the Project Manager.

Declaration of conflict of interest

<p>Actual conflict of interest is where you already have a conflict.</p> <p>Potential conflict of interest is where the conflict is about to happen or could happen.</p> <p>Perceived conflict of interest is where other people might reasonably think you are not being objective.</p>	<p>If you have answered 'Yes' or 'Potentially' to any of the above questions, please provide details here. Otherwise sign the declaration below.</p>
---	--

Your declaration

<p>Declaration – I confirm that the above details are correct to the best of my knowledge and I make this declaration in good faith.</p>		
Signature:		Date: 18/12/2017
<p>Review by Procurement Team – I confirm that I have received this declaration and noted the contents. Where a conflict of interest is declared, complete the next part of the form.</p>		
Name:		
Signature:		Date:



Conflict of Interest and Confidentiality Agreement



Who and when?

Anyone involved in a procurement activity must complete this agreement before developing tender documents, joining an evaluation panel or making a decision. Before you complete this form, read the Quick-Guide: Conflicts of Interest.

Name:	Antonia Burbidge
Position:	Principal Policy Advisor, Sector Development Policy
Organisation:	MBIE
Tender:	CGE modelling
Role in the procurement activity:	Moderation panel



"In a small country like ours, conflicts of interest in our working lives are natural and unavoidable. The existence of a conflict of interest does not necessarily mean that someone has done something wrong, and it need not cause problems. It just needs to be identified and managed carefully."
Controller & Auditor-General

Do you have any actual, potential or perceived conflicts of interest?

Do you have any personal interest in the purchasing decision?
(e.g. you own shares in a supplier or related company)

Yes No Potentially (tick 'potentially' if others could perceive you have a conflict)

Are you a relative or close friend of someone with a personal interest in the goods or services being purchased or who could be personally affected by the purchasing decision?
(e.g. a family member is an employee or shareholder of a supplier)

Yes No Potentially (tick 'potentially' if others could perceive you have a conflict)

Do you have any personal obligations, loyalties or bias that could influence the way you evaluate offers and recommend purchases?
(e.g. a close friendship with an employee of a supplier)

Yes No Potentially (tick 'potentially' if others could perceive you have a conflict)

Have you recently been offered any special discounts, gifts, trips, hospitality, rewards or favours by suppliers of the goods or services being purchased?
(e.g. free travel; free samples for your own use)

Yes No Potentially (tick 'potentially' if others could perceive you have a conflict)

Are you aware of anything that could give the appearance that you might be biased towards or against a particular supplier?
(e.g. you have expressed strong views about a supplier; you worked for a supplier; you use a supplier's corporate box at a sports event)

Yes No Potentially (tick 'potentially' if others could perceive you have a conflict)



Confidentiality responsibilities

All of the procurement project's discussions, meetings and material (written and electronic) are confidential and I agree to keep this information safe. I will not give this information to anyone outside the immediate tender team without prior approval from the Project Manager.

Restrictions on contact with suppliers

I agree that my contact with potential suppliers is restricted during the period of the tender. I understand that until the successful supplier has been announced I will not:


- pass information or make comments to them about the tender;
- receive any gift, gratuity, hospitality or any inducement from them;
- meet them or have any discussion about the tender.

I will pass any requests for information and meetings from potential suppliers to the Project Manager.

Declaration of conflict of interest

<p>Actual conflict of interest is where you already have a conflict.</p>	<p>If you have answered 'Yes' or 'Potentially' to any of the above questions, please provide details here. Otherwise sign the declaration below.</p>
<p>Potential conflict of interest is where the conflict is about to happen or could happen.</p>	
<p>Perceived conflict of interest is where other people might reasonably think you are not being objective.</p>	

Your declaration

<p>Declaration – I confirm that the above details are correct to the best of my knowledge and I make this declaration in good faith.</p>		
<p>Signature:</p>		<p>Date: 18/12/17</p>
<p>Review by Procurement Team – I confirm that I have received this declaration and noted the contents. Where a conflict of interest is declared, complete the next part of the form.</p>		
<p>Name:</p>		
<p>Signature:</p>		<p>Date:</p>



Conflict of Interest and Confidentiality Agreement



Who and when?

Anyone involved in a procurement activity must complete this agreement before developing tender documents, joining an evaluation panel or making a decision. Before you complete this form, read the Quick-Guide: Conflicts of Interest.

Name:	Anita King
Position:	Senior Analyst
Organisation:	The Treasury
Tender:	Economic impact analysis of New Zealand's potential 2050 emissions targets 0941-01-RFP
Role in the procurement activity:	Member of RfP evaluation panel



"In a small country like ours, conflicts of interest in our working lives are natural and unavoidable. The existence of a conflict of interest does not necessarily mean that someone has done something wrong, and it need not cause problems. It just needs to be identified and managed carefully."
Controller & Auditor-General

Do you have any actual, potential or perceived conflicts of interest?

Do you have any personal interest in the purchasing decision?

(e.g. you own shares in a supplier or related company)

Yes No Potentially (tick 'potentially' if others could perceive you have a conflict)

Are you a relative or close friend of someone with a personal interest in the goods or services being purchased or who could be personally affected by the purchasing decision?

(e.g. a family member is an employee or shareholder of a supplier)

Yes No Potentially (tick 'potentially' if others could perceive you have a conflict)

Do you have any personal obligations, loyalties or bias that could influence the way you evaluate offers and recommend purchases?

(e.g. a close friendship with an employee of a supplier)

Yes No Potentially (tick 'potentially' if others could perceive you have a conflict)

Have you recently been offered any special discounts, gifts, trips, hospitality, rewards or favours by suppliers of the goods or services being purchased?

(e.g. free travel; free samples for your own use)

Yes No Potentially (tick 'potentially' if others could perceive you have a conflict)

Are you aware of anything that could give the appearance that you might be biased towards or against a particular supplier?

(e.g. you have expressed strong views about a supplier; you worked for a supplier; you use a supplier's corporate box at a sports event)

Yes No Potentially (tick 'potentially' if others could perceive you have a conflict)



Confidentiality responsibilities

All of the procurement project's discussions, meetings and material (written and electronic) are confidential and I agree to keep this information safe. I will not give this information to anyone outside the immediate tender team without prior approval from the Project Manager.

Restrictions on contact with suppliers

I agree that my contact with potential suppliers is restricted during the period of the tender. I understand that until the successful supplier has been announced I will not:

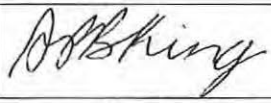
- pass information or make comments to them about the tender;
- receive any gift, gratuity, hospitality or any inducement from them;
- meet them or have any discussion about the tender.

I will pass any requests for information and meetings from potential suppliers to the Project Manager.

Declaration of conflict of interest

<p>Actual conflict of interest is where you already have a conflict.</p> <p>Potential conflict of interest is where the conflict is about to happen or could happen.</p> <p>Perceived conflict of interest is where other people might reasonably think you are not being objective.</p>	<p>If you have answered 'Yes' or 'Potentially' to any of the above questions, please provide details here. Otherwise sign the declaration below.</p>
---	--

Your declaration

<p>Declaration – I confirm that the above details are correct to the best of my knowledge and I make this declaration in good faith.</p>		
Signature:		Date: 12/12/2017
<p>Review by Procurement Team – I confirm that I have received this declaration and noted the contents. Where a conflict of interest is declared, complete the next part of the form.</p>		
Name:		
Signature:		Date:



Conflict of Interest and Confidentiality Agreement



Who and when?

Anyone involved in a procurement activity must complete this agreement before developing tender documents, joining an evaluation panel or making a decision. Before you complete this form, read the Quick-Guide: Conflicts of Interest.

Name:	Chris Holland
Position:	Senior Policy Analyst
Organisation:	Ministry for the Environment
Tender:	Economic impact analysis of New Zealand's potential 2050 emissions targets
Role in the procurement activity:	Member of selection panel



"In a small country like ours, conflicts of interest in our working lives are natural and unavoidable. The existence of a conflict of interest does not necessarily mean that someone has done something wrong, and it need not cause problems. It just needs to be identified and managed carefully."
Controller & Auditor-General

Do you have any actual, potential or perceived conflicts of interest?

Do you have any personal interest in the purchasing decision?
(e.g. you own shares in a supplier or related company)

Yes No Potentially (tick 'potentially' if others could perceive you have a conflict)

Are you a relative or close friend of someone with a personal interest in the goods or services being purchased or who could be personally affected by the purchasing decision?
(e.g. a family member is an employee or shareholder of a supplier)

Yes No Potentially (tick 'potentially' if others could perceive you have a conflict)

Do you have any personal obligations, loyalties or bias that could influence the way you evaluate offers and recommend purchases?
(e.g. a close friendship with an employee of a supplier)

Yes No Potentially (tick 'potentially' if others could perceive you have a conflict)

Have you recently been offered any special discounts, gifts, trips, hospitality, rewards or favours by suppliers of the goods or services being purchased?
(e.g. free travel; free samples for your own use)

Yes No Potentially (tick 'potentially' if others could perceive you have a conflict)

Are you aware of anything that could give the appearance that you might be biased towards or against a particular supplier?
(e.g. you have expressed strong views about a supplier; you worked for a supplier; you use a supplier's corporate box at a sports event)

Yes No Potentially (tick 'potentially' if others could perceive you have a conflict)



Confidentiality responsibilities

All of the procurement project's discussions, meetings and material (written and electronic) are confidential and I agree to keep this information safe. I will not give this information to anyone outside the immediate tender team without prior approval from the Project Manager.

Restrictions on contact with suppliers

I agree that my contact with potential suppliers is restricted during the period of the tender. I understand that until the successful supplier has been announced I will not:


- pass information or make comments to them about the tender;
- receive any gift, gratuity, hospitality or any inducement from them;
- meet them or have any discussion about the tender.

I will pass any requests for information and meetings from potential suppliers to the Project Manager.

Declaration of conflict of interest

<p>Actual conflict of interest is where you already have a conflict.</p> <p>Potential conflict of interest is where the conflict is about to happen or could happen.</p> <p>Perceived conflict of interest is where other people might reasonably think you are not being objective.</p>	<p>If you have answered 'Yes' or 'Potentially' to any of the above questions, please provide details here. Otherwise sign the declaration below.</p>
--	--

Your declaration

<p>Declaration – I confirm that the above details are correct to the best of my knowledge and I make this declaration in good faith.</p>		
Signature:		Date: 12/12/17
<p>Review by Procurement Team – I confirm that I have received this declaration and noted the contents. Where a conflict of interest is declared, complete the next part of the form.</p>		
Name:		
Signature:		Date:



Conflict of Interest and Confidentiality Agreement



Who and when?

Anyone involved in a procurement activity must complete this agreement before developing tender documents, joining an evaluation panel or making a decision. Before you complete this form, read the Quick-Guide: Conflicts of Interest.

Name:	Tamara Linnhoff
Position:	Principal Analyst
Organisation:	Ministry for the Environment
Tender:	Whole of Economy modelling of impacts of
Role in the procurement activity:	Selection Panel

2450
pages



"In a small country like ours, conflicts of interest in our working lives are natural and unavoidable. The existence of a conflict of interest does not necessarily mean that someone has done something wrong, and it need not cause problems. It just needs to be identified and managed carefully."

Controller & Auditor-General

Do you have any actual, potential or perceived conflicts of interest?

Do you have any personal interest in the purchasing decision?
(e.g. you own shares in a supplier or related company)

Yes No Potentially (tick 'potentially' if others could perceive you have a conflict)

Are you a relative or close friend of someone with a personal interest in the goods or services being purchased or who could be personally affected by the purchasing decision?

Yes No Potentially (tick 'potentially' if others could perceive you have a conflict)

(e.g. a family member is an employee or shareholder of a supplier)

Do you have any personal obligations, loyalties or bias that could influence the way you evaluate offers and recommend purchases?

Yes No Potentially (tick 'potentially' if others could perceive you have a conflict)

(e.g. a close friendship with an employee of a supplier)

Have you recently been offered any special discounts, gifts, trips, hospitality, rewards or favours by suppliers of the goods or services being purchased?

Yes No Potentially (tick 'potentially' if others could perceive you have a conflict)

(e.g. free travel; free samples for your own use)

Are you aware of anything that could give the appearance that you might be biased towards or against a particular supplier?

Yes No Potentially (tick 'potentially' if others could perceive you have a conflict)

(e.g. you have expressed strong views about a supplier; you worked for a supplier; you use a supplier's corporate box at a sports event)



Confidentiality responsibilities

All of the procurement project's discussions, meetings and material (written and electronic) are confidential and I agree to keep this information safe. I will not give this information to anyone outside the immediate tender team without prior approval from the Project Manager.

Restrictions on contact with suppliers

I agree that my contact with potential suppliers is restricted during the period of the tender. I understand that until the successful supplier has been announced I will not:


- pass information or make comments to them about the tender;
- receive any gift, gratuity, hospitality or any inducement from them;
- meet them or have any discussion about the tender.

I will pass any requests for information and meetings from potential suppliers to the Project Manager.

Declaration of conflict of interest

<p>Actual conflict of interest is where you already have a conflict.</p>	<p>If you have answered 'Yes' or 'Potentially' to any of the above questions, please provide details here. Otherwise sign the declaration below.</p>
<p>Potential conflict of interest is where the conflict is about to happen or could happen.</p>	<p>I used to work for M2iOR Jan-Oct 2010. Have maintained friendly relationships with colleagues but not close.</p>
<p>Perceived conflict of interest is where other people might reasonably think you are not being objective.</p>	<p>Have since commissioned M2iOR (for MPE in 2012) with no perceptions or conflict raised.</p>

Your declaration

<p>Declaration – I confirm that the above details are correct to the best of my knowledge and I make this declaration in good faith.</p>		
<p>Signature:</p>		<p>Date: 12/12/17</p>
<p>Review by Procurement Team – I confirm that I have received this declaration and noted the contents. Where a conflict of interest is declared, complete the next part of the form.</p>		
<p>Name:</p>		
<p>Signature:</p>		<p>Date:</p>



Conflict of Interest Management Plan



Who and when?

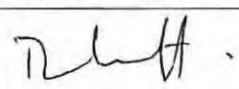
The Procurement Advisor must complete this Plan when you declare a conflict of interest. Decide how to manage the conflict and give details below.

Tender:	Whole of Economy modelling of impacts of 2050 targets.
---------	--

How the conflict of interest will be managed

<p>There are five options for managing or resolving your conflict of interest:</p> <p>Restrict your involvement in the process</p> <p>Recruit an independent third party to oversee part or all of the process</p> <p>Remove yourself from the process</p> <p>Relinquish your private interest that causes the conflict</p> <p>Resign from the agency</p>	<p>The following plan has been agreed to manage your declared conflict of interest. This takes into account the conflict's likely effect on your role and responsibilities in the procurement activity, as well as the risks to the process and the agency's reputation.</p> <p>transparent procurement process - scoring of proposals in systematic manner. Panel consists of 6+ participants from multiple agencies.</p>
---	--

Approval – I approve the above Conflict of Interest Management Plan		
Signature: Procurement Advisor		Date:

Declaration – I agree to the above Conflict of Interest Management Plan		
Signature: Person making the declaration		Date: 12/12/17

Resolved – the conflict of interest has now been resolved and no further action is required		
Signature: Procurement Advisor		Date:

RELEASED UNDER
THE OFFICIAL INFORMATION ACT 1982



PROCUREMENT PLAN

This Procurement plan describes the proposed evidence base, on the whole-of-economy impacts of the proposed 2050 emissions targets – that the Transition Hub’s modelling and policy team (the Transition team) will provide to the Climate Directorate’s 100 Days project.

This evidence base is necessary to support policy advice to the Minister on the proposal to include a new 2050 emissions target in the Zero Carbon Bill.

Capability to carry out computable general equilibrium (CGE) modelling is not available in-house. Only 3 suppliers exist in New Zealand: this is a specialist area.

The procurement plan will be progressed over two stages. (Budgeted amounts above *include* provision for up to \$20,000 disbursements for each stage – in case an overseas supplier is selected).

- Funding can be reallocated from within the Transition Hub’s budget for FY17/18. By re-purposing funds
- from funding allocated to external consultancy advice costing options for transition pathways to the 2030 target
 - to this proposed whole-of-economy impact analysis of 2050 targets, to support the 100 Days project.

Name of Procurement Project: **Economic impact analysis of the New Zealand’s potential 2050 emissions targets (stages 1 & 2)**

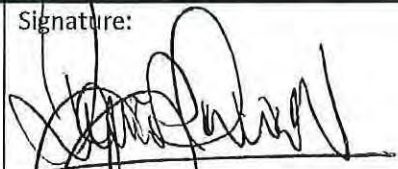
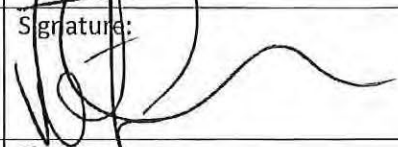
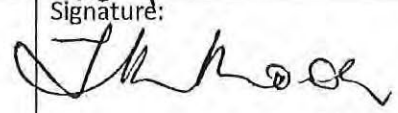
Prepared by: **Tamara Linnhoff**

Date: **28 November 2017**

Budget for this work (NZ\$ excl. GST): **Both stages: \$280,000 total (including disbursements)**

Stage 1 (FY 17/18): \$150,000 (including disbursements)

Stage 2 (FY 18/19): \$130,000 (including disbursements)

APPROVED BY	
Budget Holder (Contract Owner): Roger Lincoln Director, Climate Date: 29/11/17.	Signature: 
Financial Delegation Holder*: Vicki Connor Deputy Secretary, Organisational Performance Date: 30.11.17	Signature: 
Procurement Adviser: Teri Moon, Senior Procurement Advisor Date: 29.11.17.	Signature: 

1. **Important Note:** This plan proposes a non-compliant procurement process. The rationale and risks relating to this procurement process are covered in the relevant sections of this plan.
2. In signing this section, the parties approve the strategy detailed below. The Ministry's approvers must therefore be satisfied that the risk assessment and mitigation strategies in this plan are sufficiently robust to undertake the proposed non-compliant procurement process.

*Please note:

- This may be the same person as the budget holder depending on the budget holder's delegation level.
- Where the procurement involves a supplier who is a former employee this must be a Deputy Secretary or above.
- Managers hold financial delegation up to and including \$40,000, Directors up to and including \$100,000, Deputy Secretary Organisation Performance and Operations up to and including \$1,000,000, all other Deputy Secretaries up to and including \$250,000.

What we require and why

This procurement relates to the **delivery of whole of economy modelling and qualitative analysis to support economic impact analysis of the 2050 emissions targets under consideration, which:**

- 1) **Takes into account:**
 - a) **Baseline variations:**
 - emissions projections
 - economic growth in New Zealand and the rest of the world including the rate of expected technological change in the emissions intensive and low emissions sectors
 - the cost of inaction (i.e. climate damages) above current policy levels to New Zealand's economy
 - the rest of the world's climate actions
 - b) **The benefits of climate action:**
 1. the innovation and resource efficiency benefits
 2. other benefits from climate action, such as co-benefits on human health that may improve labour productivity
 - c) **The availability, or limits on, international purchasing**
 - d) **Variations in emissions impact of short-lived and long-lived gases.**
- 2) **Models:**
 - a) **the economic impact of a range of 2050 emissions targets (the Ministry will define these targets), where the model optimises the transition pathway**
 - b) **the impact of a range of transition pathways (combination of policy interventions) for a range of targets imposed on the model**
 - c) **the impact on varying assumptions on innovation rates and timing of increased innovation.**
- 3) **Delivers the following economic impact analyses:**
 - a) **Whole-of-economy impacts**
 - b) **Sector-specific impacts across the key sectors (including land use)**
 - c) **International competitiveness and carbon leakage**
 - d) **Regional impacts**
 - e) **Distributional impacts on households.**

We require the services to be delivered electronically to the MfE staff member who will be identified as key contact in the contract.

Payment will be on successful delivery of milestones (full stages) specified in the contract.

Key outcomes

Timeframes for delivery of key outcomes for both stages 1 and 2 are as below.

Description	Indicative date for delivery
Stage 1:	
<p>1. <i>Confirming approach:</i> Written update on progress constructing a model to calculate the baseline scenario (including expected baseline innovation, eg transition to electric vehicles (EVs)) and planned approach to:</p> <p>a) analyse the impact of the targets (the required carbon price to ensure transition – solved endogenously within the model) and</p> <p>b) analyse the impact of the targets if supported by three exogenously defined key policy interventions. Policy interventions may include on afforestation, promotion of electric vehicle (EV) uptake, an increase in renewable energy generation and (at a high level) policies to reduce emissions in agriculture. The impact of each key policy (with the targets) should be tested independently, plus the collective impact of all policies (with the targets) should also be tested.</p> <p><i>The Ministry will provide by the end of 2017:</i></p> <ul style="list-style-type: none"> • <i>three defined emissions targets</i> • <i>three exogenously defined key policy interventions to promote the transition to a low emissions economy.</i> 	31 Jan 2018
2. <i>Initial modelling:</i> Written update specifying results of initial modelling runs: for approaches a) and b).	23 Feb 2018
3. <i>Extensions to baseline – Rest of World:</i> Written update on further extensions to the baseline case including adapting the model to allow modelling scenarios to reflect variations in the rest of the world's action on climate.	2 March 2018
4. <i>Including sectoral and distributional analysis:</i> Written update specifying any updates to approaches 1a) and 1b), and the initial findings of the impact of 1a) and 1b) on key sectors, the distributional impact analysis across society.	23 March 2018
5. <i>An Interim report:</i> that collates the four written updates highlighted above, and which also updates all sections of analysis as appropriate based on further analysis, and on feedback provided by the Ministry on Stages 1's items 1-3.	6 April 2018
Stage 2:	
6. <i>Extensions to baseline – Climate damages and the use of marginal damage functions:</i> Written update on improvements to the baseline case to incorporate the cost of inaction above current policy levels.	4 May 2018
7. <i>Extensions to impact analysis:</i> Written update on the whole-of-economy, key sector and distributional impact analyses. Initial findings of a regional impact analysis. An extension of approach 1b): namely incorporation of up to 4 further exogenously defined key policy interventions.	1 June 2018

<i>The Ministry will provide in June 2018 up to four further exogenously defined key policy interventions to be modelled.</i>	
8. <i>Extension of Impact analysis by including Innovation effects resulting from government communicating and international competitiveness: Written update on the extension of the impact analysis: including innovation benefits, resource efficiency gains and co-benefits into the modelling, and linking into international trade models to assess the impact of NZ targets on international competitiveness and carbon leakage.</i> <i>The Ministry will provide in June 2018 figures to support input into the modelling regarding the empirical evidence of the innovation benefits and international competitiveness of key sectors.</i>	29 June 2018
9. Draft technical report specifying the impact analyses undertaken, and shorter policy impact report (20 pages max) covering the key findings and written in a form that is accessible to a non-technical audience.	13 July 2018
10. Final technical report and policy report	31 July 2018

Market/supplier analysis and assumptions

Services will be procured from a supplier or suppliers of economic consultancy services. Suitable suppliers will specialise in modelling the whole-of-economy, sector-specific and distributional impacts of climate action.

A likely approach is computable general equilibrium (CGE) modelling. CGE expertise within New Zealand is limited: there are only 3 suppliers. One supplier is unavailable within our necessary timeframe, and the other two have indicated an intention to submit a joint proposal.

So officials will also approach overseas providers: EnviroEconomics in Canada, Resources for the Future in Washington DC, USA and Warwick McKibbin, Professor and Director, ANU Centre for Applied Macroeconomic Analysis (CAMA) in the Crawford School of Public Policy at the Australian National University. The team is also researching appropriate suppliers in the UK, and within NZ academia.

NZ suppliers that will be approached are on the All of Government Consultancy Panel. The plan to invite overseas suppliers to offer proposals will drive a non-panel procurement process requiring an RFP.

1) Forecasting/planning

Similar work may be procured in the future to test the costs of specific policies designed to shift the New Zealand economy towards a low emissions pathway.

This would occur as a separate item or items of work after stage 2: using the more developed version of the model to test the impact of specific policies designed to transition the economy towards low emissions.

Whether such further work will be undertaken within MfE or by a Climate Commission is yet to be decided.

2) Past procurement activity

Similar modelling was procured in 2015 to test the impacts of the proposed climate targets under the Paris Agreement.

Procurement strategy

Closed Request for Proposal (RFP) to a selected number of preferred suppliers.

Due to the required short timeframe for delivery of Stage 1, and the limited number of suitably qualified suppliers – all of whom are known to staff – it is not intended to undertake an open tender process.

Due to the value of the procurement, this procurement approach will be a breach of the Government Rules of Sourcing (the Rules). This is addressed in the risk section below.

Procurement risks and mitigations

Risk: Limited supply market worldwide therefore limited competition.

There are only three suitably skilled and experienced suppliers in the New Zealand market. One supplier is unavailable within our necessary timeframe, and the other two have indicated an intention to submit a joint proposal, meaning limited competition.

Mitigation

A closed tender process that includes at least one and ideally more than one international expert suppliers will provide the competition necessary to drive value for money and to ensure delivery of quality outcomes within the required timeframe.

Risk: Non-compliance with the Government Rules of Sourcing.

As a Public Service department, the Ministry must apply the Government Rules of Sourcing (the Rules). The Rules require that the Ministry openly advertise contracts over a maximum total estimated value of \$100,000. By undertaking a closed tender procurement approach the Ministry will be in breach of the Rules. The risks of such non-compliance are summarized as follows:

- **Risk of Audit:** It is very likely that a contract of this value will be audited as part of our external auditor's programme. If requested the Ministry must supply documented rationale for non-compliance (which would be this procurement plan). Any audit is likely to note that this procurement approach is non-compliant with the Rules and that will likely impact their findings, recommendations and the Ministry's audit rating.
- **Risk of judicial review:** documented rationale would be considered in any judicial review noting however, the circumstances of this procurement means, in our assessment, it unlikely a judicial review would be sought, let alone successful.
- **Risk of complaint:** Another supplier in the market may otherwise complain about the Ministry's processes, and the fact that the Ministry has not complied with the Rules as required. If a complainant is not satisfied by the Ministry's response, they may seek an independent review or investigation by a competent authority (eg, the Office of the Auditor-General or the Ombudsman).

The MfE Business Owner and Procurement consider that the risk of a complaint from another supplier to be low on the basis that the services sought are specialist in nature and the value is relatively modest.

Mitigation

Due to this project forming part of the Government's 100 Days commitments and an intention to make Cabinet Decisions on proposals to include in public consultation in March, there is not sufficient time to undertake an open tender process. In order to be able to achieve the outcomes necessary to support policy advice to the Minister, the services must commence no later than 19 December 2017.

For these reasons the intended procurement approach is a closed RFP which will ensure contestability and deliver value for money but within the timeframes that an open tender process cannot achieve.

Summary: In considering these risks, the MfE Business Owner is of the view that the overall benefits of the closed procurement approach outweigh the risks to the Ministry associated with the proposed non-compliant procurement process

Risk: Perceived conflict of interest

Tamara Linnhoff, an MfE staff member involved in this project, has previously worked for one of the potential suppliers: NZIER.

Mitigation

This potential conflict will be fully documented in the Col Declaration with an appropriate management strategy to address any perceived conflict of interest.

Project Risk and Mitigation

Economic modelling is an iterative process, and varying a model’s inputs can provide unexpected results. The mitigation is to stagger the modelling approach: adding complexity step by step.

3) Procurement timeline

Activity	Date (NZ time)
Procurement Plan Approved:	30 November 2017
RFP Released:	4 December 2017
Deadline for Suppliers’ Questions (Deadline for Questions):	1:00pm 7 December 2017
Deadline for the Buyer to answer suppliers’ questions (Deadline for Answers):	3:00pm 11 December 2017
Deadline for Quotes:	11:00pm 13 December 2017
Responses evaluated	14 December 2017
Evaluation moderation session	15 December 2017
<i>Indicative date for follow up clarifications or conversations w Supplier</i>	<i>15-17 December 2017</i>
Supplier Selected by:	18 December 2017
Approval to Appoint Memo Signed by:	19 December 2017
Contract Drafted and Sent to Legal Help:	19 December 2017
Urgent Legal Review to be completed (timing subject to any contract amendments or drafting requirements):	22 December 2017
Subject to completion of legal review and supplier acceptance, Contract signed by:	22 December 2017
Unsuccessful Respondents Notified by:	18 December 2017
Anticipated Contract Start Date:	4 January 2018

4) Evaluation approach

The selection process will include representatives of the wider Interagency Transition Hub; ideally a nominee from Treasury, MBIE and MPI.

Proposals will be assessed as:

- o Whether it meets the preconditions
- o The achieved score against weighted criteria (as set out below).

The Quote that scores the highest will likely be selected as the Successful Respondent.

Pre-conditions

Each Quote must meet all of these pre-conditions:

#	Pre-condition
2.	Availability to deliver within the specified timeframes
3.	No conflict of interest

Evaluation criteria

Quotes which meet all pre-conditions will be evaluated on their merits according to the following evaluation criteria and weightings:

Criterion	Weighting
1. Proposed solution (fit for purpose) <ul style="list-style-type: none">• Proposed solution is sound in its methodology and can demonstrate ability to achieve the desired outcomes (25%)	25%
2. Capability of the Respondent to deliver <ul style="list-style-type: none">• Can demonstrate a successful track record in delivering computable general equilibrium modelling, with references from three satisfied clients within the past 3 years, Modelling Expertise should include the ability to link CGE into climate models and international models (25%)• Demonstrates ability to communicate complex economic analysis (10%)	35%
3. Capacity of the Respondent to deliver <ul style="list-style-type: none">• Has suitably qualified resources available to deliver quality service within the specified timeframe• Ability to offer the desired output analyses (15%)	15%
4. Price and contract <ul style="list-style-type: none">• Rates must be competitive and offer overall value for money (15%)• Acceptance of MfE's standard contract terms (10%)	25%
Total weightings	100%

5) Evaluation panel

The evaluation panel will comprise:

1. Chris Holland, MfE Transition Hub
2. Ed Hearnshaw, MfE Transition Hub
3. Tamara Linnhoff, MfE Transition Hub

Moderation will take place following independent evaluations. Moderation will include representatives from the following agencies:

4. Treasury – expected to be Anita King
5. MBIÉ- expected to be Antonia Burridge
6. MPI – expected to be Phil Wiles

6) **Negotiation strategy**

A negotiation strategy will be developed after evaluation of the proposals. It is intended that this process will deliver the best outcome for the best total cost. Any aspect of the preferred supplier's proposal that does not meet expectations will be addressed to ensure a satisfactory outcome for the Ministry and stakeholders.

7) **Form of agreement**

High Value Agreement (for international/non AoG Panel supplier selected) or Consultancy Services Order (if NZ AoG Panel supplier is selected).

8) **Contract management**

The contract will be managed as follows:

- the MfE contract manager will ensure management and monitoring of deliverables
- regular progress meetings
- weekly status updates from the supplier, including an issues and risks register

9) **Budget and financial**

Is budget allocated for this procurement/contract?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (Select one)
Will the supplier require or have access to sensitive, restricted or secret or top secret official information? (If Yes, consultation with the Ministry's Chief Security Officer is required)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (Select one)

Cost Centre	Project Code	Account Code	Departmental or Crown	Contract Start and End Dates	Total Budget excluding Disbursements
186	50110	4110	Departmental		\$240,000

Disbursements

Type	Value
Actual and reasonable costs e.g. travel for meetings with the Ministry in Wellington payable upon receipts – only for overseas providers	Stage 1: \$20,000 Stage 2: \$20,000

Total cost of procurement including disbursements excluding GST:

Total Budget including Disbursements
\$280,000

10) Consultant/ Contractor

Consultant (4110)	Economic modelling and advisory services	Offsite
-------------------	--	---------

Next steps

Forward this document to a procurement adviser for review/approval.

When this plan has been agreed, remove DRAFT and send agreed final version to the procurement adviser, the budget holder and the delegated authority for signing.

If your procurement involves a formal tender process i.e. RFQ/RFP, draft the tender document (using excerpts from this plan) and send to your procurement adviser for review.

Post tender process

Complete an *Approval to Appoint* memo to be signed by the delegated authority. This memo details the evaluation and selection process and provides the authority to proceed to contract with the supplier(s) selected via this procurement process.

Ensure the following documents are saved in Te Puna (along with other documentation relevant to this procurement e.g. evaluation matrix and meeting notes)

- signed Approval to Appoint memo
- signed procurement plan
- executed contract document

Ensure the above original signed documents (including both copies of the original signed contract) are provided to the Procurement Administrator to be entered into FMIS.

Useful links

[Procurement Policy page](#)

[Mastering Procurement guide](#)

[Procurement Tools and Templates page for:](#)

- Rfx templates
- evaluation guidance
- contract templates
- Approval to Appoint template
- supplier notification guidance
- contract management guidance

RELEASED UNDER
THE OFFICIAL INFORMATION ACT 1982

Procurement Mailbox

From: Procurement@mfe.govt.nz
Sent: Tuesday, 6 March 2018 9:49 a.m.
To: Procurement Mailbox
Subject: CMS - Contract submitted

A new contract has been recorded in the CMS form, and shortly will be set up in FMIS.

Submitter's name: **Lucy Freeman**
Submitter's team: **Procurement**
When: **6/03/2018**

Contract Title: **CSO - with NZ Institute of Economic Research re Economic Impact Analysis of New Zealand's Potential 2**

Contract Number: **22245**

Contract Type: **Consulting Services Order (CSO) Tranche 1**
Entity: **Departmental**
Supplier Name: **NZ Institute of Economic Research Incorporated**
Supplier No.: **L0050667**
Head Agreement: **21568**

Cost Centre: **186 Transition Hub**
Project Code: **50110 Modelling and Forecasting**
Account Code: **4110 Professional consulting fees**

Contract Owner: **Claire Richardson**
Start Date: **15/01/2018**
Expiry Date: **1/06/2018**
Estimated Contract Value: **234501**
Tender Method: **Closed**
Hourly Rate: **0**
Daily Rate: **0**
Contract Person(s):
Report? **No**

RELEASED UNDER
THE OFFICIAL INFORMATION ACT 1982