

# Contractor and Consultant Policy

This policy supersedes all previous versions and is valid until further notice.

## Purpose

Toitū Te Whenua Land Information New Zealand is a public entity, spending money from taxpayers and third-party fee payers. This means that our decisions and practices must be able to withstand Parliamentary and public scrutiny.

This policy sets out the principles of best practice, minimum standards, and expectations for the engagement of contractors and consultants. It applies to everyone employed or authorised to act for Toitū Te Whenua.

## Policy

This policy and its principles ensure that:

- our engagements with contractors and consultants deliver value for money
- we follow open, fair and transparent processes and procedures.

## Who this applies to

This policy applies to all staff, contractors, consultants, and anyone authorised to act on behalf of Toitū Te Whenua. It applies whether they are permanent, fixed term, and whether or not they are in New Zealand.

This policy applies to all engagement of contractor and consultant resources **except:**

- a. the recruitment of permanent or fixed term staff (refer to your [Business Partner – People](#))
- b. the procurement of goods, services and works described under the [Procurement Policy](#)
- c. the engagement of resources related to:
  - i. provision of services outside of core business, such as cleaning services, registered trades, or building security
  - ii. outsourced services – service providers that have been contracted to provide all or part of a business activity or function, such as consents, rent reviews, valuations, or tenure review. These are contracted under a services-related contract or are part of a Toitū Te Whenua service panel arrangement (refer to the [Procurement Policy](#))
  - iii. staff on secondment from other government agencies

- iv. external board members
- v. external legal services (refer to the [Legal Services team](#))
- d. audit fees or actuarial fees
- e. statutory appointments
- f. ministerial appointments
- g. core Crown legal matters
- h. public prosecutions as defined in section 5 of the Criminal Procedure Act 2011.

## Contractor versus consultant

The definitions of a **contractor** and **consultant** are provided in the [Standards of Integrity and Conduct \(SIC\) - Te Kawa Mataaho Public Service Commission](#):

A person is considered a **contractor** if all the following apply:

- a. they are providing backfill or extra capacity in a role that exists within the agency, or acting as an additional resource for a time-limited piece of work (project work); and
- b. they are under the direct supervision of the agency, and the recruitment agency is responsible for ensuring that the required deliverables and performance standards are met; and
- c. they are engaged on a contract for service, either directly (self-employed) or through a third party (recruitment agency), and are not an employee; and
- d. they are paid on provision of a GST invoice through their own managed entity or third-party recruitment agency or consulting company.

**Contractors** also generally:

- a. require access to Toitū Te Whenua IT systems to perform their duties (work onsite/remotely as agreed)
- b. charge on a time unit basis (such as by the hour or day)
- c. are engaged through a talent acquisition services order (TSO) or a Government Model Contract (GMC).

A **consultant** does not meet the definition of a contractor. A person is considered a consultant if all the following apply:

- a. they are a company or individual engaged in a contract for professional advice or information either directly (self-employed) or through an organisation; and
- b. they provide expertise in a particular field and can demonstrate relevant skills and expertise not readily available from within the agency; and
- c. they are engaged to perform a specific piece of work or outcome with a clearly defined scope and often invoice by project or for delivering certain milestones; and
- d. they operate independently from the agency and are responsible for all the resources and managing the risks associated with delivering the piece of work.

**Consultants** also generally:

- a. work offsite, but may be required to work onsite from time to time
- b. carry the risk of payment being withheld for the piece of work they are engaged to complete if it is not delivered or is not fit-for-purpose
- c. are often engaged under a consultancy services order (CSO) or GMC.

**Note:** Having the title of 'consultant' or being engaged through the All of Government (AoG) Consultancy Services Panel does not necessarily mean an individual should be considered a consultant. This classification depends on the nature of their engagement with Toitū Te Whenua. Toitū Te Whenua must provide reporting on contractor and consultant spend, so it is important to classify the resource correctly. Contact the [Commercial Team](#) if you are not sure.

# 1 Policy in detail

## 1.1 Policy statements

- This policy must be read in conjunction with the Toitū Te Whenua [Procurement Policy](#).
- All engagements for contractors and consultants should align with the Toitū Te Whenua values: Bold, Expert, Stronger Together.
- When we engage contractors and consultants we will follow the six [Principles of Government Procurement](#):
  - a. Plan and manage for great results
  - b. Be proportionate and right-size the procurement
  - c. Be fair to all suppliers
  - d. Get the right supplier
  - e. Get the best deal for everyone
  - f. Play by the rules
- Before deciding to engage contractors and consultants:
  - a. use employees first and by default (this includes fixed-term or open-term roles, up-skilling internal resources, or secondments from within Toitū Te Whenua or from another public sector agency. Contact your [Business Partner - People](#) for help.)
  - b. backfill to temporarily increase capacity or supplement capability (backfill roles should be filled through fixed-term employment. If you engage a contractor for a backfill role, you will need to justify the reason in the Contractor and Consultant Request Form (CCRF)).
- When engaging contractors or consultants, you must use an AoG panel, unless there is a good reason not to.
  - a. For contractors, use the [Talent Acquisition Services](#) panel
  - b. For consultants, use the [Consultancy Services](#) panel
- Engagements outside an AoG panel with a whole of life cost over \$100,000 must be documented, with this justification reviewed and endorsed by the Leader - Commercial. This includes variations to contracts bringing the WOLC to \$100,000 or more (excl. GST).
- A [Conflict of Interest Declaration](#) must be completed and updated regularly by everyone involved in a contractor and consultant engagement process.

- All contractor and consultant engagements must be approved according to the [Financial and Contractual Delegations Policy](#).
- All contracts must be recorded in the Contract Management System (CMS) before the contractor or consultant starts work. Any variations must be recorded in the CMS before they come into force.
- All contracts with whole of life costs of \$100,000 or more must have a contract award notice published, including secondary procurement processes through an All of Government or Toitū Te Whenua panel.
- Any deviation from this policy must be documented and approved by the [Commercial Team](#).
- Failure to comply with this policy may be considered a breach of the [Code of Conduct](#) or the person's employment agreement. This could result in disciplinary action including termination of employment for serious misconduct. Leaders are responsible for ensuring that all staff reporting directly to them are aware of this policy.

## 2 Key roles and responsibilities

The following outlines the main roles and responsibilities for engaging contractors and consultants.

Role	Description of responsibility
Chief Executive	<ul style="list-style-type: none"> <li>• Has overall responsibility for ensuring Toitū Te Whenua's practices are open, fair and transparent, and adhere to the principles as outlined in this policy when engaging with contractors and consultants.</li> <li>• Approves all engagements for security consultants, private investigators and Kaihautū engagements.</li> <li>• Reports to the Public Service Commissioner, who in turn appoints the Procurement System Leader in MBIE.</li> </ul>
Kaihautū	<ul style="list-style-type: none"> <li>• Provide leadership to embed this policy within their business group.</li> <li>• Identify and communicate procurement risks and obligations within their business group.</li> <li>• Provide assurance to the Chief Executive that their business group complies with this policy and that any matters of non-compliance have been dealt with appropriately.</li> </ul>
Business Partner – People	<ul style="list-style-type: none"> <li>• Review the Contractor and Consultant Request Forms (CCRFs) for new and variation requests from a people services perspective (contractor/consultant versus permanent/fixed term).</li> <li>• Provide advice on the recommended engagement path to the relevant Head of (employee recruitment or contractor/consultant).</li> <li>• Consider the employee vs contractor test when providing advice.</li> <li>• Provide advice on suitable rates where possible.</li> </ul>

Leader	<ul style="list-style-type: none"> <li>• Responsible for embedding this policy into operational activities within their team.</li> <li>• Ensure new and existing staff are made aware of and comply with this policy.</li> <li>• Report any known, suspected or alleged breach or misconduct. Leaders may be directed by their senior leader to investigate known, suspected or alleged breaches or misconduct.</li> </ul>
All staff	<ul style="list-style-type: none"> <li>• Comply with this policy and <a href="#">procedures</a> as applicable to their role.</li> <li>• Use the AoG Talent Acquisition Services or Consultancy Services panels by default.</li> <li>• If the contractor/consultant is not provided through the AoG Talent Acquisition Services or Consultancy Services panels, and the engagement has a whole of life cost of \$100,000 or over (excl GST), include the following in the CCRF: <ul style="list-style-type: none"> <li>○ the reason for the direct source, and</li> <li>○ endorsement from the Leader – Commercial that the skills/experience were not available through the AoG panels.</li> </ul> </li> <li>• Within their financial delegation, approve CCRFs, exemptions, contracts, variations and renewals.</li> <li>• Maintain accurate records and ensure the CCRF and contract are loaded into the CMS.</li> <li>• Ensure the following stakeholders are consulted as required: <ul style="list-style-type: none"> <li>○ Business Partner – Finance for budget,</li> <li>○ Facilities team if a desk is required,</li> <li>○ the OE functional leader as applicable e.g. Communications and Engagement team if a communications resource is required,</li> <li>○ Chief Information Officer (CIO) for a digital delivery related resource.</li> </ul> </li> <li>• If the contractor or consultant will be onboarded for building and system access ensure the mandatory due diligence checks are undertaken and consider any additional checks that may be required, as per the <a href="#">LINZ guidance</a>.</li> <li>• Contact LINZ subject matter experts as relevant to the engagement, its value, and associated risks. LINZ subject matter experts include (but are not limited to) Legal, Health and Safety, ICT Risk and Security and Privacy.</li> <li>• Manage contracts in accordance with Toitū Te Whenua’s <a href="#">Contract Management Framework</a> (see <a href="#">Contract Management</a> below)</li> </ul>

Commercial team	<ul style="list-style-type: none"> <li>• Provide advice and support to business groups on this policy.</li> <li>• Advise on exemptions and opt-outs to the Government Procurement Rules, including the use of AoG and Toitū Te Whenua-wide contracts. Leader – Commercial endorses valid exemptions.</li> <li>• Maintain and update procedures and templates to ensure they remain fit for purpose.</li> <li>• Deliver procurement training to staff.</li> <li>• Monitor procurement activity and practices and recommend improvements.</li> <li>• Monitor compliance and report on the effectiveness of this policy.</li> <li>• Review and update this policy by the agreed review date.</li> </ul>
Legal team	Provide advice on any procurement activity or contract that is high risk or has legal implications, including all supplier generated contracts.
Senior or Principal Business Partner – Commercial Management (Crown Property)	Provide advice on all Crown Property procurement activities regardless of value.
Principal Business Partner – IT Contracts	Provide advice on all ICT or digital procurement activities regardless of value.

## 2 Contract Management

- Contract management is an important strategic tool to effectively manage the contract and the delivery of goods/services throughout its lifecycle.
- Good contract management is vital to ensuring that the contract is delivered, the intended benefits achieved and that it derives maximum value from the engagement.
- [Government Procurement Rules](#) requires Toitū Te Whenua to:
  - a) Consider the contract management approach in our procurement planning.
  - b) Have a contract management system to identify the contracts that we have.
  - c) have a contract management plan developed and approved for each contract that is right sized based on the contract's value, complexity, risk and duration.

Contract management plans must include:

- clear governance arrangements and performance metrics proportionate to the contract's complexity and risk.
- transparent performance monitoring provisions.
- Toitū Te Whenua must:
  - conduct sufficient monitoring of contracts to ensure that commitments made in contracts are delivered and reported on.
  - keep records of their contract management activities.
- A range of contract management tools and guidance is available on [Whatukura](#) to support the creation of an effective contract, contract management plan and contract management

approach for each type of contract.

## 3 Toitū Te Whenua references

### 3.1 Commercial

- a. [Contract Management Framework](#)
- b. [Procurement \(Whatukura\)](#)
- c. [Procurement policy](#)
- d. [Supplier Diversity Strategy](#)

### 3.2 Other related documents

- a. [Code of Conduct](#)
- b. [Conflict of Interest Policy](#)
- c. [Delegations Policy](#)
- d. [Financial and Contractual Delegations Policy](#)
- e. [Health and Safety Policy](#)
- f. [Official Information Policy](#)
- g. [Privacy Policy](#)
- h. [Sensitive Expenditure Policy](#)

## 4 External references

The following external references have helped the development of this policy.

- a. [Government Procurement Rules](#)
- b. [Government Procurement Charter](#)
- c. [Managing Conflict of Interest: Guidance for public entities](#)
- d. [OAG Procurement Guidance for Public entities](#)
- e. [Te Kawa Mataaho | Public Service Commission - Standards of Integrity and Conduct](#)
- f. [Supplier Code of Conduct](#)

### 4.1 Legislation

- a. [Commerce Act 1986](#)
- b. [Health and Safety at Work Act 2015](#)
- c. [Official Information Act 1982](#)

- d. [Privacy Act 2020](#)
- e. [Public Finance Act 1989](#)

## 5 Definitions

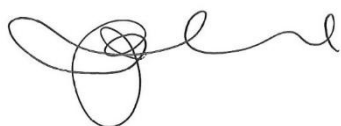
The definitions in the table below relate to terms used in this policy. For a more comprehensive list, see also the [Glossary of procurement terms](#).

Term	Definition
All-of-government (AoG) contracts	AoG contracts are usually panel contracts established by the Ministry of Business, Innovation and Employment (MBIE) or other agencies that are approved centres of expertise for common goods or services (such as vehicles, laptops or recruitment services). Each panel uses specific contract templates (service orders) for engagements.
Casual	An employee who works on an 'as needed' basis, does not have regular working hours and is paid through Toitū Te Whenua payroll. Not a contractor.
CCRF	Contractor and Consultant Request Form (CCRF). This form is used to provide details of the contractor/consultant engagement and document consultations, endorsements and approval.
Conflict of interest	When someone's personal interests or obligations conflict (or have the potential to conflict) with the responsibilities of their job, position, or commercial interests. A conflict of interest means that their independence, objectivity, or impartiality can be called into question.
Contract	An agreement that has legally binding terms agreed between two or more parties.
Contractor	See definition on page 2 above.
Contract Management System (CMS)	System that captures all Toitū Te Whenua agreements and contracts to help us monitor key dates and contract spend.
Consultant	See definition on page 2 above.
CSO	Consultancy services order (CSO), a contract that details the work provided by a consultant to an agency under the Consultancy Services Panel.
Direct source	Direct sourcing means approaching suppliers directly. This is not a preferred option as it may not result in public value, however sometimes it is the best option when the contractor/consultant has a unique skillset that is not available elsewhere.

Term	Definition
	In the context of contractors and consultants, they may provide services as sole traders or through a company.
<u>Economic Benefit to New Zealand</u>	<p>Agencies <b>must</b> seek economic benefits to New Zealand in procurements above the value thresholds of \$100,000 for goods, services and refurbishment works and \$9 million for new construction works, to be evaluated as part of the assessment of public value.</p> <p>Unless there is good reason not to, agencies are expected to award procurements below the value thresholds of \$100,000 for goods, services and refurbishment works and \$9 million for new construction works to New Zealand businesses that are capable and have capacity to deliver the contract.</p>
Fixed term	A temporary position or appointment, other than a secondment, where the work is for a specific purpose and duration and paid by Toitū Te Whenua payroll.
Government Procurement Charter	Sets out government's expectations of how agencies should conduct their procurement activity to achieve public value.
Government Procurement Rules	The standards of good practice for government procurement. As a public service department, Toitū Te Whenua must apply the Government Procurement Rules for its procurement activities.
Panel agreement or contract	An agreement that sets out the terms and conditions the agency and panel suppliers agree to use if a supplier is awarded a contract to provide specific goods, services or works. Contractor/consultant services are contracted through panel-specific contracts, for example TSO or CSO.
Permanent	An open-term position or appointment where the work is ongoing and is paid through Toitū Te Whenua payroll.
Public Value	<p>The best available result for New Zealand for the money spent. This includes using resources effectively, economically and responsibly, and taking into account:</p> <ul style="list-style-type: none"> <li>• the procurement's contribution to the results the agency is trying to achieve, including economic benefits</li> <li>• the total costs and benefits of a procurement (total cost of ownership).</li> </ul> <p>The principle of public value when procuring goods, services or works does not mean selecting the lowest price but rather the best possible outcome for the total cost of ownership (over the whole of life of the goods, services or works).</p> <p>Selecting the most appropriate procurement process that is proportionate to the value, risk and complexity of the procurement will help achieve public value.</p>

Term	Definition
Secondment	A temporary arrangement between an employer and an employee that allows the employee to work in a different department or organisation. This resource is not a contractor or consultant.
Supplier	A recruitment agency or organisation that provides Toitū Te Whenua with resources to deliver a service.
Supplier Code of Conduct	The <a href="#">Supplier Code of Conduct</a> provides a minimum set of expectations that government expects of all its suppliers.
<a href="#">Supplier Diversity Strategy</a> (Kia Kotahi Tātou)	Toitū Te Whenua strategy to guide our approach to supplier diversity. It sets out aspirational goals of how we will achieve supplier diversity, to seek better outcomes for New Zealanders and future generations.
TSO	Talent acquisition services order (TSO), a contract that details the work provided by a contractor to an agency under the Talent Acquisition Services Panel.
Whole of life cost (WOLC)	An estimate of the total cost that an agency will pay over the entire contract. It covers the full contract cost of the contractor or consultant engagement (such as hourly rate x hours to be worked) as well as any other expenses such as travel costs, and any renewals or extensions to the contract.

Approved **1 December 2025** as a Toitū Te Whenua Administrative Policy



**Te Tumu Whakarae**

Toitū Te Whenua Land Information New Zealand