



Te Kawa Mataaho

Public Service Commission

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Minister of Business Innovation and Employment

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Tēnā koe Carolyn

Inquiry into the protection of personal information

In June 2024, following a direction from the Prime Minister and the Minister for the Public Service, Acting Public Service Commissioner Heather Baggott appointed Pania Gray and Michael Heron KC to conduct an Inquiry into allegations that personal information provided to government agencies as part of Census 2023, or for Covid-19 vaccination purposes, had been misused by third-party service providers during the 2023 General Election.

Under the [terms of reference](#), the inquiry was to establish the facts and provide an independent assessment of government agency activity in relation to the allegations.

The final report will be available on the Commission's website from 2pm today.

Findings of the Inquiry and my expectations

I am writing to you as the System Lead for government procurement, as significant aspects of the report deal with issues surrounding government agencies' management of conflicts of interest during the procurement process, and I would appreciate your help to address some of these.

Broadly, the report outlines that conflicts of interest provisions existed in the contracts between Te Puni Kōkiri and Statistics New Zealand with their respective third party service providers. The report goes on to conclude that these agreements did adequately and appropriately set out the expectations of the parties and included relevant protections and safeguards.

However, the inquiry found that whilst these provisions existed in the contracts, they were not actively engaged by the parties to the contract. This is not the first time this issue has been raised in an investigation. There seems to be an increasingly concerning trend by government agencies as buyers of goods/services from third parties' suppliers, to passively accept that no conflict of interest exists, simply by virtue of the supplier's warranty upon signing a contract with the buyer.

The inquiry found that Government agencies did not meaningfully engage with the supplier to have a discussion and seek disclosures for conflicts of interest in order to give effect to their contractual obligations. An approach to conflicts of interest that is based solely on supplier warranties in contract,

without any meaningful discussion to give it effect, is inconsistent with the Commission's [Model Standards on Conflict of Interest](#). These standards state that:

When working with other stakeholders, including contractors, consultants and service providers, organisations need to take care to communicate expectations, identify potential conflict of interest areas before the contract starts, and develop and document appropriate responses to manage risks to all parties in a potential conflict situation.

I know that you will agree that the onus for declaring conflicts of interest should always remain with a supplier to the contract. The supplier is best placed to understand its own circumstances and whether they may or may not conflict with the goods/services it is providing to the buyer. However, the current drafting of conflict of interest provisions in the Government Model Contracts without further context or opportunity for engagement does not encourage agencies to give effect to the Commission's Model Standards as outlined above.

Immediate steps to amend Government Model Contracts

Thank you for agreeing to and working with Commission staff to make changes to Zealand Government Procurement's Government Model Contracts, in response to the finding of the Inquiry. These changes to Government Model Contracts will assist agencies to give effect to the Commission's model standards around the identification and management conflict of interest.

I hope to see these changes implemented no later than 31 March 2025. Please advise me if this is not possible. I am really appreciative of your work to do this.

Ongoing work in relation to the Supplier Code of Conduct

In addition to the changes to the Government Model Contracts, I thought you may also wish to consider whether changes to the Supplier Code of Conduct are required as well. I want to ensure that, where appropriate, third-party service providers maintain the same ethical obligations and standards of integrity and conduct expected of all public servants, when delivering services that would otherwise be performed by the government agency itself. You'll be aware the Commission issues and reviews Standards of Integrity and Conduct for the public service, it is important the Supplier Code of Conduct aligns with these Standards, as appropriate. I would be grateful if you could keep your Assistant Commissioner, Martin Kessick, updated as to your progress with this work.

Thank you for your consideration of this matter and your efforts so far on the model contracts. I would be happy to discuss further if required.

Ngā mihi nui



Sir Brian Roche KNZM

Te Tumu Whakarae mō Te Kawa Mataaho
Public Service Commissioner | Head of Service