

Ministry of Business, Innovation and Employment

Review of the Ministry's approach to answering
parliamentary select committee questions about
consultants and contractors

FINAL REPORT

April 2018



Table of Contents

Executive Summary.....	3
About this review.....	3
The requirements for disclosures about consultant and contractor spending.....	3
The Ministry’s spending on consultants and contractors in 2016/17 and 2015/16.....	4
The select committee questions.....	4
Summary of findings.....	4
Going forward.....	5
Wider system opportunities.....	6
Context and background.....	7
The Ministry of Business, Innovation and Employment.....	7
New Zealand Government procurement.....	7
Parliamentary annual reviews.....	7
The requirements for disclosures about consultant and contractor spending.....	8
The review’s objectives, scope and approach.....	8
The Ministry’s use of consultants and contractors.....	10
The Ministry’s procurement requirements.....	10
How the Ministry defines and categorises consultants and contractors.....	10
The Ministry’s spending on consultants and contractors.....	11
The select committee questions about consultants and contractors.....	12
Findings and discussion.....	13
The Ministry’s responses to select committee questions in 2015/16.....	13
The Ministry’s responses to select committee questions in 2016/17.....	13
Other agencies’ reporting on consultants and contractors.....	14
Going forward.....	16
Further opportunities for the Ministry.....	16
Wider system opportunities.....	17
Limitations and disclaimer.....	18
Appendix one: Comparison with other agencies.....	19
Appendix two: Analysis of 2016/17 procurement-related information.....	21

Executive Summary

Each year, under the Standing Orders of Parliament, parliamentary select committees scrutinise the performance of public sector agencies in the previous financial year, and their current operations. These annual reviews are triggered when an agency's annual report is presented to Parliament.¹

As part of the annual review process, select committees pose questions to which government agencies respond in writing. Many of these questions are the same for every agency, including questions about the use of consultants and contractors.

The Ministry of Business, Innovation and Employment (the Ministry or MBIE) started compiling its answers to the Economic Development, Science and Innovation Committee's (referred to as "the select committee" in the rest of this report) 2016/17 annual review questions in late 2017. During this process, the spreadsheet containing the raw data on the Ministry's payments to consultants and contractors over the previous four years was leaked by a staff member to the media. The cover note from the staff member who leaked the spreadsheet suggested that MBIE was not being transparent with the select committee about its spend, and was not fully and accurately answering the select committee's questions. The media coverage highlighted the total spend in the spreadsheet being significantly higher than the expenditure on consultants and contractors disclosed in the annual reports.

About this review

The Ministry commissioned this review to provide advice on:

- whether its approach fully, transparently and accurately answers the questions posed by the select committee about consultant and contractor spend;
- how other selected agencies approach and report on consultant and contractor spend when answering the same select committee questions and in their annual reports;
- the reasonableness and appropriateness of the 2016/17 consultant and contractor hourly rates; and
- any opportunities to enhance the Ministry's approach to, and public disclosures of, spend on consultants and contractors.

The scope of the review covered the relevant annual report disclosures and select committee questions in the 2016/17 and the 2015/16 years.

The fieldwork for the review was undertaken in February 2018. The main findings of the review were shared with the Ministry before it submitted its response to the 2016/17 annual review questions on 20 February 2018. The Ministry's hearing was on 22 February 2018.

The requirements for disclosures about consultant and contractor spending

Disclosures in government departments' financial statements are governed by the requirements of the Public Finance Act 1989. They include the requirement to comply with New Zealand generally accepted accounting practice (NZ GAAP) and Treasury instructions.

NZ GAAP does not require specific disclosures about consultant and contractor spend. However, these disclosures are considered good practice for government agencies.²

There are no other requirements, standards or centrally produced guidance for New Zealand government agencies about their public reporting of their spending on consultancy and contractors.

¹ Section 345 of the Standing Orders of the House of Representatives, Wellington, New Zealand 2017.

² Audit New Zealand's model financial statements for a government department suggests note disclosure for operating expenditure on consultancy services.

The Ministry's spending on consultants and contractors in 2016/17 and 2015/16

In 2016/17 the Ministry spent \$95.752 million on consultants and contractors (\$76.938 million in 2015/16). Of this, \$15.118 million (\$13.039 million in 2015/16) was capital expenditure, and the remaining \$80.634 million operating expenditure.

The table below shows the expenditure on consultants and contractors and how it is disclosed in the Ministry's financial statements.

Type of expenditure	Nature of expenditure	2016/17 \$m	2015/16 \$m	Disclosure in 2016/17 financial statements
Operating	Consultancy services	15.580	15.587	Disclosed as a separate line item in Note 7 Other Operating Expenses ³
Operating	Contractors (not including those working on ICT projects)	40.564	27.962	Disclosed as a separate line item in Note 6 Personnel Costs ⁴
Operating	Contractors working on ICT projects	24.490	20.350	Not separately disclosed. Included within the "IT Costs and technical support" line item in Note 7 Other Operating Expenses ⁴
Capital	Consultancy and contractor costs capitalised to assets	15.118	13.039	Not separately disclosed. Included within the relevant capital asset item
	Total	95.752	76.938	

In October 2017, the Ministry initiated further work to strengthen how the Ministry categorises, codes, manages and reports on consultants and contractors.

The select committee questions

Four select committee questions were identified as relevant to the scope of this review, two relating to consultants and contractors and two relating to capital and IT projects. The questions are summarised below (and outlined in full on page 12):

- Question 63 asks about the number and cost of consultants and contractors, and seeks various details about each contract.
- Question 68 asks about the number of temporary staff, and various details about each contract.
- Question 22 asks whether any labour and/or contractor costs were capitalised into capital project costs and seeks a breakdown by project of labour vs non-labour costs.
- Question 25 asks about IT projects completed or under way and seeks details including the estimated budget and total cost at completion for each project.

Summary of findings

The Ministry's responses to select committee questions in 2015/16⁵

The review found that the approach the Ministry took and the answers provided to these select committee questions in 2015/16 were not as clear, full and transparent as they could have been about the Ministry's spending on consultancy and contractors.

The Ministry's response to question 63 about consultants and contractors reported spending of \$38.93 million. The response did not make it clear that operating expenditure on contractors working on ICT projects of \$20.350 million was excluded.

³ In 2015/16 it was included within the Professional Services line item in the note on Other Operating Expenses.

⁴ Contractor costs are split between Personnel and Other Operating Expenses in the notes to the financial statements.

⁵ The Commerce Committee conducted the Ministry's 2015/16 annual review and presented its report to the House in March 2017. The responses to these questions were provided to the committee in December 2016.

The response also did not make it clear that the following costs were excluded and covered in responses to other questions:

- Operating expenditure of \$4.621 million on contractors paid under \$60 per hour who were defined as temporary staff and included in the response to question 68 on temporary staff.
- Capital expenditure of \$13.039 million on consultants and contractors which was covered in the response to question 22 on labour and contractor costs capitalised to capital projects.

The main reasons for this approach were that it was consistent with how the Ministry had responded to this question in previous years and that it aligned with the note disclosure in the Ministry's financial statements.

However, these reasons are not a sufficient basis for excluding these costs.

The Ministry's responses to select committee questions in 2016/17

As a result of this review, the Ministry made significant changes to the responses that it provided to these select committee questions in the 2016/17 annual review.

In particular, the Ministry included the cost of contractors working on ICT projects in its response to question 63.⁶ The Ministry noted that this was a change in its approach from previous years' responses. It was clear about what information was included in the response and what was covered in responses to other questions.

These changes have substantially improved the transparency, comprehensiveness and understandability of the information provided which will aid the select committee's scrutiny of the Ministry.

Other agencies' reporting on consultants and contractors

The review found variations in the way three other agencies disclose expenditure on consultants and contractors in their financial statements and answer select committee questions.

For example, two of the three other agencies included both capital and operating expenditure in their responses to question 63 about consultant and contractor costs. There was variation too in the nature of the information provided in the responses. For example, all agencies adopted different thresholds for the individual contracts reported.

2016/17 hourly and daily rates

A high-level analysis was carried out of the information provided by the Ministry in response to question 63 about the procurement process and the fee arrangements for each contract in 2016/17. The results of this analysis are provided in the report.

New Zealand Government Procurement advised that it operates an online panel directory which contains consultants' rate cards. Agencies such as MBIE may choose to use this for benchmarking when purchasing services from the AoG Consultancy Services panel.

To consider the reasonableness and appropriateness of the rates a more detailed analysis of the spend on consultants and contractors, and an assessment of individual procurements would be required. Such work was beyond the scope of this review. This is something the Ministry could consider commissioning further work on.

Going forward

The Ministry has the opportunity to make further improvements in a number of areas that are canvassed in the body of the report. These are:

- its responses to select committee questions about consultants and contractors

⁶ The required details on these contracts were still being collated at the time of the review and were later provided to the select committee on 28 March 2018.

- its oversight of the overall expenditure and the quality of the information held about contractors and consultants
- the formality and clarity of its process for responding to select committee questions.

It could also consider further public disclosures about its use of consultants and contractors. This would provide greater transparency about its spending in this area. The level of assurance needed over the reporting would also need to be considered.

Wider system opportunities

The use of consultants and contractors is an ongoing area of high public interest. Public reporting, and reporting to select committees, on consultants and contractors would benefit from further policy guidance from the centre, given the variation in the reporting between the four agencies observed in this review. The agencies said they would welcome such guidance.

Central policy guidance would provide greater consistency and clarity and would aid Parliament's scrutiny of government agencies' spending on consultants and contractors. It would be in line with the objectives of open government.

Context and background

The Ministry of Business, Innovation and Employment

MBIE was formed in July 2012 by bringing together the Ministry of Economic Development, Ministry of Science and Innovation, the Department of Labour and the Department of Building and Housing.

The Ministry is the government's lead business-facing agency, with a purpose of growing the New Zealand economy to provide a better standard of living for all New Zealanders. It has a wide range of functions including immigration, science and innovation, building and housing, business and energy markets, labour market, and regional development.

In 2016/17, MBIE received revenue of \$708 million, and its expenditure was \$695 million. The Ministry had physical and intangible assets of \$274 million.

New Zealand Government procurement

Each year, government agencies spend approximately \$41 billion, around 18% of GDP, procuring a wide range of goods and services from third party suppliers. Government agencies are required to follow the Government Rules of Sourcing for their procurement activity.

The Chief Executive of MBIE is the functional leader for government procurement. New Zealand Government Procurement (NZGP) delivers MBIE's procurement functional leadership objectives through a collaborative, centre-led approach.

NZGP assists government to deliver better value by lifting procurement capability and performance. It does this by providing training and advice, assessing agency commercial capability and providing advice on complex, risky and strategically important projects. NZGP also manages All-of-Government (AoG) contracts for common goods and services (there are currently 18 AoG contracts).

All agencies that are required to follow the Government Rules of Sourcing must use AoG contracts, unless there is a good reason not to. This includes the AoG contracts for Consultancy Services and Recruitment Services.

NZGP has completed a procurement process to select the AoG panel providers. There are agreed terms and conditions, and maximum rates, in place with these providers. Participating agencies can choose to select a provider from the panel directly or undertake a secondary selection process. In making this decision, agencies are asked to consider the budget, timeframes and specific nature of their requirements, as well as any internal financial delegations and processes the agency may have.

Parliamentary annual reviews

As soon after the start of the financial year as it thinks fit, Parliament's Finance and Expenditure Committee allocates to subject select committees (or retains for itself) the task of conducting annual reviews of the performance in the previous financial year of public sector agencies including government departments. The reviews also examine the current operations of public sector agencies, and what has been achieved with expenditure from appropriations.

When an agency's annual report is presented to the Parliament, the annual review stands referred to the select committee that has been allocated the responsibility for the review by the Finance and Expenditure Committee. The Economic Development, Science and Innovation Committee in the current Parliament conducted the 2016/17 annual review of MBIE and presented its report to the House in March 2018.

The requirements for disclosures about consultant and contractor spending

Disclosures in government departments' financial statements are governed by the requirements of the Public Finance Act 1989. They include the requirement to comply with New Zealand generally accepted accounting practice (NZ GAAP) and Treasury instructions.

NZ GAAP does not require specific disclosures about consultant and contractor spend. However, these disclosures are considered good practice for government agencies. For example, Audit New Zealand's model financial statements for a government department suggests note disclosure for operating expenditure on consultancy services.⁷ The model financial statements note that professional judgement needs to be applied in determining what note disclosures are material to users of financial statements.

There are no other requirements, standards or centrally produced guidance for NZ government agencies about their public reporting of their spending on consultancy and contractors.⁸

The State Services Commission provides guidance to officials appearing before select committees, emphasising the need to differentiate between being witnesses (annual reviews) and advisors (on legislation before the House). Officials appearing before select committees are expected to be alert to the environment in which they operate, particularly the parliamentary environment. Parliament expects, and is entitled to receive, full and honest answers and evidence from those who appear before its select committees.⁹

The review's objectives, scope and approach

Objectives and scope

The Ministry commissioned this review to provide advice on:

- whether its approach fully, transparently and accurately answers the questions posed by the select committee relating to consultant and contractor spend;
- how other selected agencies approach and report on consultant and contractor spend when answering the same select committee questions and in their annual reports;
- the reasonableness and appropriateness of the 2016/17 consultant and contractor hourly rates; and
- any opportunities to enhance its approach to, and public disclosures of, spend on consultants and contractors.

The scope of the review covered the relevant annual report disclosures and select committee questions in the 2016/17 and the 2015/16 years.

The following aspects were out of scope for the review:

- Verification of the accuracy and completeness of the information in MBIE information systems, and the compilation of the responses to the questions in line with the MBIE definitions and approach.
- Examination of the key risks and controls in place to manage the risks in the end-to-end process for collating and preparing responses to the select committee questions.

⁷ Audit New Zealand, Model Financial Statements, Ministry of Public Accountability, 2016/17.

⁸ There is guidance in other jurisdictions. For example, in Australia, the Department of Treasury and Finance in the Victorian state government provides various guidance materials to assist Victorian public sector entities meet their accounting and financial reporting obligations. It issues Financial Reporting Directions (FRDs), which prescribe both financial and non-financial reporting requirements. One such direction, FRD 22 H Standard Disclosures in the Report of Operations, prescribes the content of a report of operations to ensure consistency in reporting. FRD 22 H sets out certain disclosure requirements for consultancy expenditure.

⁹ State Services Commission, Officials and Select Committees – Guidelines, Wellington, August 2007

- The policies and procedures followed for the procurement of consultants and contractors.
- All matters relating to the investigation into the leak of the information to the media.

Approach

The review broadly comprised the following activities:

- Initial discussions with the key stakeholders to understand the background and operational context, including the Chief Financial Officer and the Chief Executive.
- Obtaining and reviewing documentation relevant to the scope of the review.
- Interviews and follow-up discussions with key individuals in MBIE's Finance, Procurement and Ministerial Services teams and the former Chief Executive to understand the definitions and approach taken, the information compiled and disclosed, and any other relevant matters and issues.
- Meetings with staff from three other large departments with a similar size, scale, range of functions and work programmes to MBIE – Inland Revenue, Department of Internal Affairs and the Ministry of Social Development. The Ministry of Primary Industries was also chosen but staff were not available in the timeframe for this review.
- Meeting with the external auditors, Audit New Zealand, to understand the audit work carried out on the relevant expense disclosures in the annual report, and any other pertinent matters.
- Meeting with the New Zealand Government Procurement team to understand the government procurement context and get an understanding of the benchmark information it holds about consultant and contractor hourly rates.
- Meeting with the Government Chief Accountant and the Office of the Auditor-General, about the broader system context.
- Analysing and assessing the information gathered.
- Preparing a draft report for MBIE with the findings and observations from the work, obtaining feedback and finalising the report.

The Ministry’s use of consultants and contractors

Contractors and consultants are typically used as a flexible part of an organisation’s workforce to deal with peaks in workload or additional responsibilities, and/or to provide specialist skills and external independent perspective.

Public sector agencies’ expenditure on consultants and contractors is an area of high public interest in New Zealand and in other jurisdictions. The public interest lies in whether the use of these contractors and consultants is cost-effective and provides value for money. There is also public interest in whether or not public sector agencies are unduly reliant on consultants and contractors.

The Ministry uses contractors and consultants, alongside employees, in a number of different ways. These include covering short-term demand, gaining access to specialist skills or independent external advice for specific programmes or projects, and meeting demand in periods of peak activity.

The Ministry’s procurement requirements

The Ministry’s procurement policy¹⁰ outlines its policy expectations for the procurement of goods and services. The purpose of the policy is to maximise the value of appropriate goods, services or works that are purchased to meet the needs of the Ministry.

As the policy notes, MBIE as the Procurement Functional Leader for Government, must exemplify good procurement practice to other agencies and businesses and comply with the Government Rules of Sourcing and the Principles set out in those Rules.

The Ministry’s policy requires the use of the All-of Government (AoG) contracts to procure consultancy and contractor services. Exemptions are expected to be sought from the procurement team where this is not the case. Where AoG contracts are used, the Ministry’s procedural expectation is that a secondary procurement process will be undertaken with at least three panel providers, with contracts over \$100,000 required to be reviewed by MBIE’s Commercial Legal Team.

How the Ministry defines and categorises consultants and contractors

The Ministry’s procurement guidance on who should be considered a contractor and consultant is:

Contractor	<p>A person is considered a contractor if all the following apply.</p> <ul style="list-style-type: none"> • engaged on a contract for service, either directly (self-employed) or via a third party (recruitment agency), and is not an employee; and • is paid upon provision of a GST invoice through their own managed entity or third party recruitment agency; and • is providing backfill or extra capacity in a role that exists within MBIE or acts as an additional resource for a time-limited piece of work (project work); and • is under the direct supervision of MBIE and MBIE is responsible for ensuring that the required deliverables and performance standards are met; and • requires access to MBIE’s IT systems to perform their duties and usually works onsite.
Consultant	<p>A consultant:</p> <ul style="list-style-type: none"> • does not meet the definition of a contractor; • is a company or individual engaged in a contract for professional advice or information either directly (self-employed) or through an organisation; • provides expertise in a particular field and can demonstrate relevant skills and expertise not readily available from within MBIE; • is 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; • operates independently from MBIE and is responsible for all the resources and managing the risks associated with delivering the piece of work; • generally works offsite, but may be required to work onsite from time to time. <p>Having the title of consultant doesn’t automatically mean an individual should be considered a consultant.</p>

¹⁰ MBIE Procurement Policy, August 2016

The general ledger accounts the Ministry uses for consultant and contractor expenditure, and the guidance provided to staff on categorisation and coding is outlined below.

Account Number	Account name	Account description
2841	Contractors - Backfill	Fees and expenses for contractors/temps engaged to fill established staff positions e.g. agency sourced backfill while recruiting for a permanent employee. Also short term "temp" assistance. A contractor in an established staff position: <ul style="list-style-type: none"> is engaged on a contract for service either directly (self-employed) or through an organisation provides backfill or extra capacity in a role that exists within the Department's establishment usually performs their work onsite, i.e. as part of an existing business team. Do not code ICT Project resource here. Use 3164.
2842	Contractors - Other	Fees and expenses for contractors/temps engaged for extra work load or projects. The contractor is a resource required in addition to an established staff position. If established position use 2841. A contractor in an additional position: <ul style="list-style-type: none"> is engaged on a contract for service either directly (self-employed) or through an organisation provides extra capacity for projects or a position in addition to the Ministry's establishment usually performs their work onsite. Do not code ICT Project resource here. Use 3164.
3061	Consulting Services	Fees and expenses for general consultancy services which do not fall within specific professional services accounts. E.g. Reviews; Specialist advice A consultant: <ul style="list-style-type: none"> is engaged on a contract for service, either directly (self-employed) or through an organisation provides expertise and services to deliver a specific deliverable the Ministry would not normally do itself for a defined time period usually perform their work off the Ministry's premises does not fill an establishment position in the organisation chart
3164	ICT Recovery Charge (Contractor Timesheets)	ICT Contractor time spent on projects. This account should only be used for payment of ICT contractor invoices and contractor timesheets.

The Ministry's spending on consultants and contractors

The table below shows MBE's expenditure on consultants and contractor in 2016/17 and 2015/16 years, and where it is disclosed or included in the financial statements. The Ministry's auditor did not have any concerns about these disclosures.

Type of expenditure	Nature of expenditure	2016/17 \$m	2015/16 \$m	Disclosure in 2016/17 financial statements and general ledger accounts
Operating	Consultancy services	15.580	15.587	Disclosed as a separate line item in Note 7 Other Operating Expenses ¹¹ (account 3061)
Operating	Contractors (not including those working on ICT projects)	40.564	27.962	Disclosed as a separate line item in Note 6 Personnel Costs (accounts 2841 and 2842)
Operating	Contractors working on ICT projects	24.490	20.350	Not separately disclosed. Included within the "IT Costs and technical support" line item in Note 7 Other Operating Expenses (account 3164)
Capital	Consultancy and contractors cost capitalised to assets	15.118	13.039	Not separately disclosed. Included within the relevant capital asset item
	Total	95.752	76.938	

In addition, the Ministry spent \$48.080 million in 2016/17 (\$47.169 million in 2015/16) on professional services. These included outsourced services, legal services, medical services assessment, meditation and adjudication and other professional services.

¹¹ In 2015/16, Consultancy Services was included within the "Professional Services" line item in the note on Other Operating Expenses.

In October 2017, the Ministry initiated further work to actively reduce its reliance and spend on contractors and consultants where this was appropriate. This work includes measures to strengthen how the Ministry categorises, codes, manages and reports on consultants and contractors.

The select committee questions about consultants and contractors

The following four select committee questions were identified as relevant to the scope of this review. Two related to consultants and contractors and two related to capital and IT projects. The same questions were asked of the Ministry in both the 2015/16 and 2016/17 annual reviews, with some changes made to one question in 2016/17. The changes to the question are underlined below.

<p>Question 63</p> <p>How many contractors and consultants, including those providing <u>professional</u> services, were engaged or employed in 2016/17 and what was the estimated total cost? How did this compare to each of the previous <u>five</u> financial years, both in terms of the number engaged and the total cost? For each consultant or contractor that has been engaged in the previous <u>five</u> financial years please provide the following details:</p> <ul style="list-style-type: none"> • Name of consultant or contractor • Type of service generally provided by the consultant or contractor • Details of the specific consultancy or contract • Budgeted and/or actual cost • Maximum hourly and daily rates charged • Date of the contract • Date the work commenced • Completion date • Whether tenders were invited; if so, how many were received • Whether there are proposals for further or following work from the original consultancy; if so, the details of this work?
<p>Question 68</p> <p>How many temporary staff were contracted by your department, agency or organisation in the 2016/17 financial year, listed by purpose of contract, name of company or individual contracted, duration of temporary staff's service, hourly rate of payment and total cost of contract?</p>
<p>Question 22</p> <p>Were any labour and/or contractor costs been capitalised into capital project costs during the 2016/17 financial year, if so, for each project what is the breakdown by project of labour vs non-labour costs</p>
<p>Question 25</p> <p>What IT projects, if any, were completed or under way in the 2016/17 year? For each, please provide the following details:</p> <ul style="list-style-type: none"> • Name of project • Initial estimated budget • Initial estimated time frame • Start date • Completion date or estimated completion date. • Total cost at completion or estimated total cost at completion.

Findings and discussion

The Ministry's responses to select committee questions in 2015/16

The review found that the approach the Ministry took and the answers provided to these select committee questions in 2015/16 were not as clear, full and transparent as they could have been about the Ministry's spending on consultancy and contractors.

In response to question 63 about consultants and contractors, the Ministry reported spending of \$38.93 million. The response did not make it clear that the following costs were excluded from the response:

- Operating expenditure on contractors working on ICT projects of \$20.350 million.
- Operating expenditure of \$4.621 million on contractors paid under \$60 per hour. These contractors were defined as temporary staff for the purpose of the response to the select committee question and included in the response to question 68 on temporary staff.
- Capital expenditure of \$13.039 million on consultants and contractors. These costs were included in the response to question 22 on labour and contractor costs capitalised to capital projects. However these costs were not separately identified in the response, and the details required by question 63 were not provided.

The main reasons for this approach was that it was consistent with how the Ministry had responded to this question in previous years, and that it aligned with the note disclosure in the Ministry's financial statements. However, these reasons are not a sufficient basis for excluding these costs.

Other issues noted with the responses were:

- The response to question 25 about ICT projects excluded operating expenditure on ICT projects. Some staff thought it did include operating expenditure including the contractor costs but it did not.
- The required information about the number of contractors and consultants was not provided because the Ministry had not previously collected this information and had concerns about the quality of the data it holds.
- The responses did not provide a clear picture of how the spending aligned with the note disclosures in the Ministry's financial statements.

The Ministry's responses to select committee questions in 2016/17

As a result of this review, the Ministry made significant changes to the responses that it provided to these select committee questions in the 2016/17 annual review¹² which have addressed the key issue noted above.

In particular, the Ministry included the cost of contractors working on ICT projects in its response to question 63. It noted that the required details on these contractors were being collated and would be provided at a later date. The response was clear about the information included in the response, what was covered in responses to other questions, and how the amounts aligned with the disclosures in the financial statements.

The Ministry also provided information about its professional services costs as was requested this year.

These changes have substantially improved the transparency, comprehensiveness and understandability of the information provided which will aid the committee's scrutiny of the Ministry.

The opportunities for further improvement in the responses are outlined on page 16 of this report.

¹² Responses to the written questions were provided to the select committee on 20 February in advance of the hearing on 22 February 2018.

Other agencies' reporting on consultants and contractors

The review examined the way three other agencies disclose expenditure on consultants, contractors and temporary staff in their financial statements and answer the same select committee questions. It found variations in the way the agencies disclose expenditure and answer the committee's questions.

The three other agencies looked at in this review all took differing approaches to their responses to the same select committee questions. For example:

- Two of the three agencies included both capital and operating expenditure in their responses to question 63. One of these agencies also provided a separate note on contractor and consultant expenditure in the Additional Information section of its annual report.
- All three agencies had different approaches to answering the question about temporary staff reflecting their own organisational context.
- The nature of the disclosures also differed between the agencies, for example the threshold used to provide the required details in question 63 ranged from \$1,000 to \$50,000 in the four agencies.
- Only one agency provided the number of consultants and contractors. One of the remaining two provided an explanation about why it was difficult to collate this information.

It was clear from the discussions with other agencies that the categorisation, coding and reporting of contractor, consultancy and professional services costs is an area prone to differing interpretations and judgements.

The agencies said they would welcome central policy guidance on their reporting of their spending on consultants and contractors.

Appendix one of the report provides more information about how the agencies reported on consultant and contractor spend in their annual reports and in answering the select committee questions in 2015/16.

2016/17 hourly and daily rates

A high-level analysis was carried out of the information provided by the Ministry in response to question 63 about the procurement process and the fee arrangements for each contract in 2016/17.¹³ The key points from the analysis are outlined below. The full analysis is in appendix two.

It is important to note that the review has not verified the accuracy or completeness of the information. It also did not look at whether:

- the rates were in line with the individual providers' agreed panel rates;
- the rates were appropriate for the nature, quality and required duration of the services provided; or
- the procurement of consultancy and contractor services was carried out in line with the government and MBIE's policy expectations.

Consultancy services

Procurement process

- 61% of consultancy costs were recorded as procured from suppliers on the AoG panels. This does not necessarily mean that there was a secondary procurement process with the suppliers on the panel.

¹³ Note that contractor costs on ICT projects are not included as this information was still being collated by the Ministry at the time of the review. Temporary staff paid under \$60 per hour are also not included in this analysis.

- 38.1% of consultancy costs were recorded as not tendered.¹⁴ Of this, 11.5% of the costs were for contracts over \$100,000.

Rates

- 55.8% of the consultancy costs were based on fixed rate arrangements.
- 38% of the consultancy costs were on an hourly rate arrangement, with the rates ranging from \$60 per hour to \$650 per hour.
- 6.2% of the consultancy costs were on a daily rate, with rates ranging from \$263 per day to \$3,000 per day.

Contractors (not including contractors working on ICT projects and temporary staff)

Procurement process

- 81.9% of contractor costs were recorded as procured from suppliers on the AoG panels. As noted above, this does not necessarily mean that there was a secondary procurement process with the suppliers on the panel.
- 15.1% of the contractor costs were recorded as not tendered.¹⁴ Of this, 7% of the costs were for contracts over \$100,000.

Rates

- 4.7% of the contractor costs were based on fixed rate arrangements.
- 83.6% of the contractor costs were on an hourly rate arrangement, with the rates ranging from \$62 per hour to \$350 per hour.
- 11.7% of the contractor costs were on a daily rate, with rates ranging from \$500 per day to \$3,000 per day.

NZGP advised that it operates an online panel directory which contains consultants' rate cards, which agencies such as MBIE may choose to use for benchmarking when purchasing services from the AoG Consultancy Services panel.

NZGP also advised that it monitors fees charged by suppliers on the AoG panels, and that suppliers are invited to review their rates regularly. Although agencies can source directly from the panels, the expectation is that agencies will use a secondary procurement process to provide further competitive pressure on the market.

To consider the reasonableness and appropriateness of the rates a more detailed analysis of the spend on consultants and contractors, and an assessment of the individual procurements would be required. Such work was beyond the scope of this review. This is something the Ministry could consider commissioning further work on.

It would also be beneficial for the Ministry to:

- regularly monitor rates to ensure they are reasonable and appropriate and in line with individual provider agreed rates
- seek assurance that the Ministry's procurement practices are in line with its policy and procedural expectations.

¹⁴ Note that some of these contracts were with AoG suppliers – see page 21.

Going forward

Further opportunities for the Ministry

The Ministry has the opportunity to make further improvements going forward.

1. The responses to the select committee questions

The Ministry could further improve its responses to select committee questions, should the same questions be asked, by:

- providing details about the number of consultants and contractors, once it has obtained sufficient comfort that the data it holds is robust
- including capital expenditure on consultants and contractors in its response to question 63. This would provide a more comprehensive response to the question.
- providing information in question 25 on the total costs of the projects, both capital and operating.

2. Oversight of the overall expenditure and the quality of the information held about contractors and consultants

Regular reporting to the senior leadership team on the use of contractors and consultants, the fee arrangements and the rates charged would further improve the Ministry's oversight of the expenditure and the progress on the actions being taken to reduce spending. Getting assurance that its procurement practices are in line with its policy and procedural expectations would be beneficial.

It would also be beneficial to:

- review the clarity and consistency of the guidance provided to staff on the categorisation and coding of expenditure and other information
- provide further training to staff about the categorisation of information
- collect the information that is reported to the select committee more frequently than the current annual exercise.

These measures would improve the quality of the information about consultants and contractors.

3. The process to collate the responses to select committee questions

Developing formal business rules for the process for responding to select committee questions would provide greater clarity about the process, the information required for responses, and the roles and responsibilities for collection, assuring its quality and signing it off.

4. Public disclosures about consultants and contractors

The Ministry could consider greater disclosures about its use of consultants and contractors in its annual report. It could also provide more detailed information, for example, on its website. This would provide greater transparency about its spending in this area.

The level of assurance needed over the reporting would also need to be considered. For example, including the information in the financial statements would mean it is subject to independent scrutiny through the annual external audit. The Ministry could use its internal audit function or obtain other independent assurance it considers necessary over any information provided publicly on its website.

Wider system opportunities

The use of consultants and contractors is an ongoing area of high public interest. Public reporting, and reporting to select committees, on consultants and contractors would benefit from further policy guidance from the centre, given the variation in the reporting between the four agencies observed in this review. The agencies said they would welcome such guidance.

Central policy guidance would provide greater consistency and clarity and would aid Parliament's scrutiny of government agencies' spending on consultants and contractors. It would be in line with the objectives of open government.

Limitations and disclaimer

This report was prepared solely in accordance with the terms of reference for this engagement and for no other purpose. We disclaim any responsibility for the use of the work for a different purpose or in a different context.

The report is provided solely for the purpose of assisting the Ministry with advisory services and is not to be used for any other purpose or distributed to any other party without our consent. Other than our responsibility to the Ministry, we undertake no responsibility arising in any way from reliance placed by a third party on our work. Any reliance placed is that party's sole responsibility. Accordingly, we accept or assume no duty, responsibility or liability to any other party in connection with this report or this engagement.

This report is based on information provided by the Ministry and interviewees made available by it. We have considered and relied on this information. We have assumed that the information provided was reliable, complete and not misleading.

The work was not performed in accordance with any generally accepted auditing, review or assurance standards in New Zealand and accordingly does not express any form of assurance. None of the advisory services constitute any legal opinion or advice. The work did not involve any form of inquiry to detect fraud or illegal acts.

Appendix one: Comparison with other agencies

Annual report disclosures

The table below summarises the disclosures provided in each of the agencies' 2015/16 financial statements about consultants, contractors and temporary staff, and IT costs.

Disclosures in the 2015/16 financial statements				
Type of operating expenditure	MBIE	Inland Revenue*	Department of Internal Affairs	Ministry of Social Development
Consultancy services costs	Included within the <i>Professional Services</i> line item in Note 6 "Other Operating Expenses". Not disclosed as a separate line item. In 2016/17, it was disclosed as a separate line item in the same note.	Disclosed in Note 3 "Operating expenses" as a separate line item <i>Consultants</i>	Disclosed in Note 4 "Other operating expenses" as a separate line item <i>Consultants</i>	Included and disclosed in Note 5 "Operating Expenses" in line item <i>Consultant and contractors' fees</i>
Contractors costs	Disclosed in Note 6 "Personnel Costs" as a separate line item <i>Contractors</i>	Disclosed in Note 2 "Personnel Costs" as a separate line item <i>Contractor and Temporary staff</i> .	Disclosed in Note 3 "Personnel Costs" combined with the salaries and wages line item <i>Salaries, Wages and Contractor Expenses</i>	Included and disclosed in Note 5 "Operating Expenses" in line item <i>Consultant and contractors' fees</i>
Information technology costs	Disclosed in Note 7 "Other Operating Expenses" as a separate line item <i>IT Costs and technical support</i> . Includes costs of contractors working on ICT projects	Disclosed in Note 3 "Other operating expenses" as a separate line item. Does not include any contractor costs	Disclosed in Note 4 "Other operating expenses" as a separate line item <i>Computer Costs</i> Does not include any contractor costs.	Disclosed in Note 5 "Operating expenses" as a separate line item <i>IT-related operating expenses</i> Does not include any contractor costs.

*Inland Revenue also provided a separate note on Contractor and Consultancy Services which included both capital and operating expenditure in the Additional Information section of its annual report.

Appendix one (contd.): Comparison with other agencies

Responses to select committee questions

The table below shows how each agency approached answering the 2015/16 select committee questions.

2015/16 select committee questions		Agency responses to the questions			
Question		MBIE	Inland Revenue	Department of Internal Affairs	Ministry of Social Development
Question 63 - Consultants and Contractors How many contractors and consultants, including those providing services, were engaged or employed in 2015/16 and what was the estimated total cost? How did this compare to each of the previous four financial years, both in terms of the number engaged and the total cost? For each consultant or contractor that has been engaged in the previous four financial years please provide the following details: • Name of consultant or contractor • Type of service generally provided by the consultant or contractor • Details of the specific consultancy or contract • Budgeted and/or actual cost • Maximum hourly and daily rates charged • Date of the contract • Date the work commenced • Completion date • Whether tenders were invited; if so, how many were received • Whether there are proposals for further or following work from the original consultancy; if so, the details of this work?	What's included?	Operating expenditure on consultants and contractor, excluding the costs of contractors working on ICT projects, and the costs of contractors paid <\$60 hourly rate.	All consultant and contractor costs incurred during the year, both capital and operating in nature.	All consultant and contractor costs incurred during the year, both capital and operating in nature. Publicity and advertising related costs covered by another question are excluded.	Operating expenditure on consultants and contractors. ICT contractor costs capitalised to projects not included. Also, some ICT contractor operational costs supporting changes to Ministry IT applications not included.
	Nature of disclosure	Value of spend, and detailed list of contracts >\$1,000 Number of contractors and consultants not provided	Value of spend and contracts >\$10,000 Number of consultants and contractors not provided. Some other details (contract dates, tender details and rates) not provided because of research and collation effort. Split between Business Transformation contract costs and Other	Value of spend and contracts >\$5,000. Number of consultants and contractors provided, with explanation how this had been determined.	Contracts >\$50,000 or where supplier is paid >\$50,000. Number of contractors and consultants not provided, with an explanation why. Other details as requested provided except for hourly and daily rates because of collation and research effort. Information provided by different types of services or programme areas.
Question 68 - Temporary Staff How many temporary staff were contracted by your department, agency or organisation in the 2015/16 financial year, listed by purpose of contract, name of company or individual contracted, duration of temporary staff's service, hourly rate of payment and total cost of contract?	What's included?	Contractors paid <\$60 per hour	Temporary staff contracted Separate to contractors included in Question 63	Temporary staff contracted. Separate from contractors included in Question 63.	Temporary staff employed on employment agreements. Separate from contractors included in Question 63
	Nature of disclosure	Detailed list of contracts as required Number of temporary staff not provided.	Total cost of temporary staff. Average FTE per month, and the agencies used.	Most of the required details, except the number of staff. Information provided on number of agencies and number of roles.	Number of temporary staff as at the end of the year provided.
Question 22 - Capitalised labour and contractor costs Were any labour and/or contractor costs been capitalised into capital project costs during the 2015/16 financial year, if so, for each project what the breakdown by project of labour vs non-labour costs is?	What's included?	Labour and contractor costs capitalised to projects	Labour and contractor costs capitalised to projects	Labour and contractor costs capitalised to projects	Labour and contractor costs capitalised to projects
	Nature of disclosure	Breakdown by project of labour and non-labour costs	Breakdown by project of labour and non-labour costs	Breakdown by project of labour and non-labour costs	Breakdown by project of labour and non-labour costs
Question 25 - IT Projects What IT projects, if any, were completed or under way in the 2015/16 year? For each, please provide the following details. • Name of project • Initial estimated budget • Initial estimated time frame • Start date • Completion date or estimated completion date. Total cost at completion or estimated total cost at completion.	What's included?	IT projects completed or underway Includes capital costs only	IT projects completed or underway. Includes both capital and operating costs.	IT projects completed or underway Includes both capital and operating costs	IT projects completed or underway Includes both capital and operating costs
	Nature of disclosure	Required details for projects	Required details of the projects	Required details of the projects	Required details of the projects

Appendix two: Analysis of 2016/17 procurement-related information

The high-level analysis presented below is of the information on the procurement process and the fee arrangements for each contract reported by the Ministry in response to question 63 in 2016/17. The information provided by the Ministry was extracted from the Ministry's financial and contract management systems and then reviewed by the business units who procured the services to validate the information. The review has not verified the accuracy or completeness of the information.

There are a few points to note:

- The contractor analysis does not include:
 - contractors working on ICT projects as this information was still being collated by the Ministry at the time of the review.
 - contractors paid < \$60 per hour who were defined as temporary staff by the Ministry and reported in question 68.
- The costs analysed below for consultants and contractors total \$47.361 million. The costs in the annual report for consultants and contractors (not including ICT contractors) is \$56.144 million. The following accounts for the difference:
 - \$6.890 million for temporary staff costs as noted above.
 - \$1.893 million for items excluded from the reporting such as contracts <\$1,000, master service contracts, funding agreements and other miscodings identified through the process of collation.
- In compiling the required information about whether tenders were invited for each contract, the Ministry recorded contracts as "AoG Panel" where the suppliers were identified as being on the NZGP list of AoG panel suppliers. This does not necessarily mean that it went through a secondary procurement process with suppliers on the panel. In some cases, following review by the business unit, contracts initially recorded as being with AoG suppliers were changed to 'not tendered' or 'tendered'. Therefore, some contracts noted as tendered or not tendered are with AoG suppliers.

Summary of procurement process analysis

Consultants

Procurement Process	Amount \$	Number of contracts	%age of Amount	%age of number of contracts
AoG panel	8,398,780	211	61.0%	52.9%
Tendered	127,427	4	0.9%	1.0%
Contracts under \$100k not tendered	3,653,330	173	26.5%	43.4%
Contracts over \$100k not tendered	1,584,279	11	11.5%	2.8%
Grand Total	13,763,816	399		

Contractors

Procurement Process	Amount \$	Number of contracts	%age of Amount	%age of number of contracts
AoG panel	27,527,602	479	81.9%	79.4%
Tendered	992,683	14	3.0%	2.3%
Contracts under \$100k not tendered	2,736,185	94	8.1%	15.6%
Contracts over \$100k not tendered	2,340,943	16	7.0%	2.7%
Grand Total	33,597,413	603		

Summary of rate analysis

Consultants

Rate	Amount \$	Number of consultants	%age by Contract Value	%age by number of consultants
Daily rate				
Less than \$500 per day	37,812	2	0.3%	0.5%
\$500-\$750 per day	1,361	1	0.0%	0.3%
\$1,000-\$1,250 per day	313,180	5	2.3%	1.3%
\$1,500-\$1,750 per day	78,943	3	0.6%	0.8%
\$1,750-\$2,000 per day	21,000	1	0.2%	0.3%
\$2,000-\$2,250 per day	208,342	3	1.5%	0.8%
\$2,250-\$2,500 per day	11,082	3	0.1%	0.8%
\$2,500-\$2,750 per day	144,699	5	1.1%	1.3%
\$3,000-\$3,250 per day	33,853	1	0.2%	0.3%
Sub-total - daily rate	850,272	24	6.2%	6.0%
Hourly rate				
\$60-\$100 per hour	284,502	7	2.1%	1.8%
\$100 - \$150 per hour	1,647,162	35	12.0%	8.8%
\$150 - \$200 per hour	1,574,417	34	11.4%	8.5%
\$200-\$250 per hour	525,554	18	3.8%	4.5%
\$250-\$300 per hour	405,627	23	2.9%	5.8%
\$300-\$350 per hour	346,995	12	2.5%	3.0%
\$350-\$400 per hour	100,686	8	0.7%	2.0%
\$400-\$450 per hour	20,400	1	0.1%	0.3%
\$450-\$500 per hour	46,360	2	0.3%	0.5%
Greater than \$500 per hour	277,765	2	2.0%	0.5%
Sub-total - hourly rate	5,229,468	142	38.0%	35.6%
Fixed Rate	7,684,076	233	55.8%	58.4%
Grand Total	13,763,816	399		

Contractors

Rate	Amount \$	Number of contractors	%age by Contract Value	%age by number of contractors
Daily rate				
\$500-\$750 per day	443,027	6	1.3%	1.0%
\$750-\$1,000 per day	418,541	7	1.2%	1.2%
\$1,000-\$1,250 per day	2,063,256	23	6.1%	3.8%
\$1,250-\$1,500 per day	643,692	4	1.9%	0.7%
\$1,500-\$1,750 per day	303,324	1	0.9%	0.2%
\$2,000-\$2,250 per day	56,992	1	0.2%	0.2%
\$3,000-\$3,250 per day	3,920	1	0.0%	0.2%
Sub-total - daily rate	3,932,752	43	11.7%	7.1%
Hourly rate				
\$60-\$100 per hour	5,753,842	134	17.1%	22.2%
\$100 - \$150 per hour	17,926,845	269	53.4%	44.6%
\$150 - \$200 per hour	3,333,483	63	9.9%	10.4%
\$200-\$250 per hour	541,315	12	1.6%	2.0%
\$250-\$300 per hour	377,021	8	1.1%	1.3%
\$300-\$350 per hour	100,217	3	0.3%	0.5%
\$350-\$400 per hour	56,920	1	0.2%	0.2%
Sub-total - hourly rate	28,089,643	490	83.6%	81.3%
Fixed Rate	1,575,018	70	4.7%	11.6%
Grand Total	33,597,413	603		