

Memo

Situation report - Tātou

Date:	7 September 2023
To:	Dr Diana Sarfati, Director-General of Health
Copy to:	Lisa McPhail, Chief of Staff, Office of the Director-General
From:	Elisabeth Brunt, Acting Deputy Director-General, Government and Executive Services
For your:	Information

Purpose of report

1. There has been heightened external interest the last couple of months in Manatū Hauora (the Ministry) engagements with Tātou, a communications, marketing and engagement agency.
2. This memo provides a report on the facts, as presently known, of the Ministry's engagement of Tātou for services. It does not comment on the appropriateness of any of the procurement approaches or processes. PwC has been engaged to undertake a rapid review, as part of our risk and assurance activity, in order to provide assurance over the conflict of interest processes and/or make recommendations for improvements.

Background and context

3. External interest in the Ministry's engagements with Tātou started in 2021, initially through written parliamentary questions (WPQs). The WPQs relating to Tātou continued into 2023. There have also been a few official information requests from the New Zealand Taxpayers' Union and media outlets.
4. Te Kawa Mataaho has received a request to review the contracts for appropriate management of conflicts of interest and has sought assurance from the Director-General.
5. In recent months there has been particular interest, including from media, around a perceived conflict of interest due to Hon Peeni Henare's personal relationship with the now former Chief Executive Officer of Tātou, Skye Kimura. It was reported by Radio New Zealand on 17 August 2023 that Ms Kimura said she was no longer employed by Tātou after a personal choice to leave.
6. The Ministry's engagements with Tātou began in 2021 and some of the staff who were involved in the earlier work with Tātou no longer work for the Ministry. This presents challenges for determining the events that took place.
7. The information in this memo has been prepared based on best efforts to establish the facts of the various engagements with Tātou based on available documentation and recollection.

8. In the process of gathering this detail, we have identified some minor inaccuracies in some of our responses to external queries including three WPQs, an information request from the New Zealand Taxpayers' Union (NZTU) and a media information request. The WPQs were recently corrected (see Appendix) and we are looking into corrections for the information requests. The inaccuracies in the information request responses include details on which work items had a contract, dates, procurement process descriptions, and which contracts had a standard conflicts of interest clause.
9. Minister Henare was not involved in any of the procurement decisions relating to Tātou.

Services and procurement

10. The Ministry has engaged Tātou for services in 7 instances, which have been described below.

COVID-19 Lived experience group

11. In 2021, Tātou were engaged to co-design an engagement plan for the COVID-19 lived experience work. The amount invoiced was \$11,000 excluding GST.
12. A competitive procurement process was used to select a provider for this work. This took place in June 2021. A request for proposal letter was sent to 3 potential suppliers, 2 responded and Tātou was selected.
13. The agreement for this work was drafted as a Consultancy Services Order and dated 11 June 2021.

Tātai

14. Tātai is a website and solution for collecting Māori iwi affiliation data. The information is to be used by iwi and the Ministry to enhance equity and support better health outcomes for Māori.
15. This project was originally set up to run alongside the COVID-19 vaccination process but was always intended to continue beyond that.
16. There have been 5 contracts for work relating to Tātai between 2021 and 2023.

Contract title	Date of final signature	Ministry signatory (role)	Contract value (excluding GST)	Note
Tātai Phase 1: Narrative, Brochure and Poster	22/11/2021	Deputy Director-General, Data and Digital	\$21,500	Services start date was 01/09/2021 (ie, prior to signing).
Tātai Phase 2: Communications and Marketing	20/03/2022	Manager, Māori Health Insights	\$60,000	
COVID-19 Delta Outbreak Services Grant - Tātou NZ Ltd	30/04/2022	Manager, Māori Health Insights	\$40,000	This was for work to support the implementation and rollout of Tātai.

Contract title	Date of final signature	Ministry signatory (role)	Contract value (excluding GST)	Note
Tātai Communications and Marketing	20/12/2022	Manager, Māori Health Insights	\$60,000	Services start date was 01/08/2022 (ie, prior to signing).
Tātou NZ Limited, Social Media Tiles for Tātai	08/06/2023	Manager, Māori Health Insights	\$19,740	The Māori Health Directorate is still in communication with Tātou on this work as the items delivered did not meet expectations.

17. The first contract (Tātai Phase 1) was the result of a competitive procurement process that involved a request for proposals. The documentation we presently have that confirms this are internal memos, which include reference to the use of a preferred panel supply model and state that 3 potential suppliers were selected, with only 2 having capacity to respond. We also have a copy of the joint proposal from Alpherio and Tātou. Alpherio is the company that worked on the technical component and provided the digital solution.
18. The 4 subsequent contracts were direct source procurements (ie, non-competitive).

Smokefree 2025 brand design

19. The contract for the Smokefree 2025 brand design work had a value of \$83,000 excluding GST. It was signed by both parties on 14 March 2022 and the agreement term was 1 February 2022 to 31 March 2022. The Ministry's signatory was the Manager of the Tobacco Control team.
20. The procurement process was a competitive request for quotes. The request document noted the Ministry needed a designer who can demonstrate a Kaupapa Māori approach to the work. The Ministry received 3 proposals and the evaluation panel ultimately selected Tātou. The evaluation panel comprised 3 Ministry staff and 2 external members from Tala Pasifika and Hāpai Te Hauora Tapui Limited.

Conflict of interest processes

21. For the services relating to the COVID-19 Lived experience group, the Consultancy Services Order includes a conflict of interest declaration section where Skye Kimura acknowledged that 'diligent inquiry' had been made in to whether Tātou had any actual, potential or perceived conflict of interest in relation to providing the services agreed, and no conflicts were declared. The terms and conditions also include a section on conflicts of interest which, amongst other things, required the provider to make diligent inquiry and to advise the Ministry whether any conflicts existed.

22. In relation to the Tātai work, the 5 contracts were based on a Ministry standard contract modelled off a New Zealand Government Procurement template. Approval memos for the last 2 of these contracts (signed December 2022 and June 2023); included conflicts of interest as a 'commissioning consideration'. The memos recorded there were no conflicts and that the Tātai project governance group would manage any that arise.
23. As part of the standard terms and conditions for these 5 contracts, there are clauses where the supplier warrants that it has no conflict of interest in providing the services or entering the contract and is required to do its best to avoid situations that may lead to a conflict of interest. The supplier is also required to immediately tell the buyer in writing if any conflict of interest arises. If a conflict of interest does arise, the parties must discuss, agree and record in writing whether it can be managed, and if so how.
24. The New Zealand Government Procurement website includes guidance around managing conflicts of interest and confidentiality in procurement processes. This guidance is mostly focused on conflicts of interest staff may have. It also provides webpage links to the Office of the Auditor-General's guidance on managing conflicts of interest in procurement and a guide on integrity and conduct from Te Kawa Mataaho, which includes conflict of interest model standards.
25. In terms of the Smokefree 2025 brand design contract, the format differs to that of the contracts for Tātai and is not based on the same template. There are no conflicts of interest clauses in this agreement. As for the evaluation panel members, each one did complete a 'conflict of interest and confidentiality agreement'. We have been provided with copies for 4 out of 5 members. The form for one of the Ministry members has not been found. The only conflict declaration made in the forms was from the Hāpai Te Hauora Tapui Limited member who declared a professional relationship with the CEO of Tātou, as they had previously used Tātou to produce collateral for them.

Te Kawa Mataaho conflict of interest model standards

26. Te Kawa Mataaho updated its conflicts of interest model standards in December 2022. One of the updates was the addition of a section on procurement. There is now a paragraph which states:

Conflicts can occur at an agency, not just individual, level. It is important to consider contractors' and suppliers' relationships with agency senior leaders and Ministers. If a conflict of interest is identified that relates to a Minister, the matter should be escalated to, and managed by, the agency chief executive in a timely way.

27. Prior to this update, there was no specific mention of relationships with Ministers.
28. All but 1 of the contracts with Tātou were entered into prior to the change in the model standards. The contract that would have been subject to the requirement to consider suppliers' relationships with Ministers is the Tātai one from June 2023 for the social media tiles. The staff involved in this procurement do not appear to have known about the requirement to look into relationships with the Minister.

Next steps

29. As noted in paragraph 2, PwC has been engaged to conduct a rapid review to provide assurance over the conflict of interest processes and/or make recommendations for improvements.
30. Separate to this specific matter, we believe there is an opportunity to educate staff on and promote awareness around procurement, conflicts of interest and integrity more generally. The Statutory Appointments and Integrity Services team will connect with other teams in the Ministry to bring about a collective effort in building staff knowledge in these areas, including hosting an 'Integrity week' at some point in the future. Some internal communications about Te Kawa Mataaho conflict of interest model standards have already been published in the DG Pānui and People Leaders Update.
31. You may want to consider directing Corporate Services to conduct spot checks across a range of contracts to provide assurance that conflict of interest processes are being followed.

Appendix

- Corrections to WPQs

Recommendations

It is recommended that you:

1.	note the details about the Ministry's engagements with Tātou	<input checked="" type="radio"/> Yes/ <input type="radio"/> No
2.	note the next steps detailed above	<input checked="" type="radio"/> Yes/ <input type="radio"/> No

Signature _____

Elisabeth Brunt

Acting Deputy-Director General, Government and Executive Services

Date: _____

7/9/23

Signature _____

Dr Diana Sarfati

Director-General of Health

Date: _____

Appendix: Corrections to WPQs

WPQ 41049 (2021)

- Corrected content: \$12,600 corrected to \$12,650.
- Question:
41049 (2021). Dr Shane Reti to the **Minister of Health** (13 Sep 2021): Further to 38256(2021) how much funding is associated with invoices received for the services described in 38256(2021) associated with 'Tātou NZ Ltd'?
- Original response:
Hon Andrew Little (Minister of Health) replied: I am advised that the total cost associated with this contract with Tātou NZ Ltd was \$12,600.
- Corrected response:
Hon Andrew Little (Minister of Health) replied: I am advised that the total cost associated with this contract with Tātou NZ Ltd was \$12,650 (including GST).
[This response was corrected on 28 August 2023 by Hon Dr Ayesha Verrall - Minister of Health. The response corrected the total cost.]

WPQ 20344 (2022)

- Corrected content:
 - Date of \$11,000 payment corrected from 21 October 2021 to 5 October 2021
 - Contract end date for Tātai phase 2 item corrected from 30 April 2022 to 31 May 2022.
- Question:
20344 (2022). Simeon Brown to the **Minister of Health** (22 Jun 2022): Have any of the Core Crown Agencies/Departments the Minister is responsible for engaged Tātou NZ for any services in the past 4 years, and if so, on what dates, if any, and for how much money, if any?
- Original response:
Hon Andrew Little (Minister of Health) replied: The attached table identifies contracts between the Ministry of Health the entity Tātou NZ Ltd, in the last 4 years. There was also a one-off payment of \$11,000 paid on 21 October 2021 for services for the COVID-19 Lived experience advisory group (Te Kōtuku e Rere) to develop a consumer engagement framework.

Table 20344 (2022). Contracts between the Ministry of Health and Tātou NZ in the past four years.

Description	Contract Value (\$)	Start Date	End Date	Payments made (\$)
Smokefree 2025 Brand design	\$83,000	1 February 2022	31 March 2022	\$83,000
Tātai Phase 2: Communications and Marketing	\$60,000	20 March 2022	30 April 2022	\$60,000
Stage 1 Communications & Design - Iwi Affiliation	\$21,500	1 September 2021	1 December 2021	\$21,500

Note: There was also a one-off payment of \$11,000 paid on 21 October 2021 for Tātou who worked with the COVID-19 Lived experience advisory group (Te Kōtuku e Rere) to develop a consumer engagement framework.

- Corrected response:

Hon Andrew Little (Minister of Health) replied: The attached table identifies contracts between the Ministry of Health the entity Tātou NZ Ltd, in the last 4 years. There was also a one-off payment of \$11,000 paid on 5 October 2021 for services for the COVID-19 Lived experience advisory group (Te Kōtuku e Rere) to develop a consumer engagement framework. [This response was corrected on 28 August 2023 by Hon Dr Ayesha Verrall - Minister of Health. The response corrected date references in the response and in the attached table.]

Table 20344 (2022). Contracts between the Ministry of Health and Tātou NZ in the past four years.

Description	Contract Value (\$)	Start Date	End Date	Payments Made (\$)
Smokefree 2025 Brand design	\$83,000	1 February 2022	31 March 2022	\$83,000
Tatai Phase 2: Communications and Marketing	\$60,000	20 March 2022	31 May 2022	\$60,000
Stage 1 Communications & Design - Iwi Affiliation	\$21,500	1 September 2021	1 December 2021	\$21,500

Note: There was also a one-off payment of \$11,000 paid on 5 October 2021 for Tātou who worked with the COVID-19 Lived experience advisory group (Te Kōtuku e Rere) to develop a consumer engagement framework.

WPQ 9109 (2023)

- Content corrected: Invoice payment date for the second Smokefree invoice was updated from 3 March 2022 to 3 May 2022.
- Question:
9109 (2023). Simeon Brown to the **Minister of Health** (04 Apr 2023): What funding, if any, has been distributed by any of the departments or entities that the Minister is responsible for to Tātou NZ, listed by date, amount, purpose, and who specifically, signed off on the funding?

- Original response:

Hon Dr Ayesha Verrall (Minister of Health) replied: I refer the Member to the attached table for the funding distributed to Tātou NZ Limited from Manatū Hauora.

I am advised that Te Whatu Ora has funded one purchase order for Tātou NZ Limited, to the value of \$20,400 excluding GST. This was invoiced and paid between August 2022 and December 2022. The General Manager of National Digital Services and Chief Technology Officer approved this payment. The payment was for operating units on the Finance, Procurement and Information Management (FPIM) Oracle system.

Table 9109 (2023). Funding distributed by Manatū Hauora to Tātou NZ Limited listed by date of payment, amount, purpose and delegated financial authority (DFA) as at 5 April 2023.

Invoice Payment date to entity	Amount (excl GST)	Purpose	DFA for contract
5 October 2021	\$11,000	COVID-19 Response	Manager of Office DDG – COVID-19 Response Directorate.
21 December 2021	\$21,500	COVID-19 Response	Deputy Director General – Data & Digital Services.
22 April 2022	\$41,500	Smokefree 2025	Team Manager – Policy and Regulation, Public Health Agency.
3 March 2022	\$41,500	Smokefree 2025	Team Manager- Policy and Regulation, Public Health Agency.
10 June 2022	\$60,000	COVID-19 Response	Manager - Māori Health Insights and Monitoring
11 August 2022	\$40,000	COVID-19 Response	Manager - Māori Health Insights and Monitoring
7 March 2023	\$13,600	COVID-19 Response	Manager - Māori Health Insights and Monitoring
Total	\$229,100		

- Corrected response:

Hon Dr Ayesha Verrall (Minister of Health) replied: Corrected reply: I refer the Member to the attached table for the funding distributed to Tātou NZ Limited from Manatū Hauora.

I am advised that Te Whatu Ora has funded one purchase order for Tātou NZ Limited, to the value of \$20,400 excluding GST. This was invoiced and paid between August 2022 and December 2022. The General Manager of National Digital Services and Chief Technology Officer approved this payment. The payment was for operating units on the Finance, Procurement and Information Management (FPIM) Oracle system.

Table 9109 (2023). Funding distributed by Manatū Hauora to Tātou NZ Limited listed by date of payment, amount, purpose and delegated financial authority (DFA) as at 5 April 2023.

Invoice Payment date to entity	Amount (excl GST)	Purpose	DFA for contract
5 October 2021	\$11,000	COVID-19 Response	Manager of Office DDG – COVID-19 Response Directorate.
21 December 2021	\$21,500	COVID-19 Response	Deputy Director General – Data & Digital Services.
22 April 2022	\$41,500	Smokefree 2025	Team Manager – Policy and Regulation, Public Health Agency.
3 May 2022	\$41,500	Smokefree 2025	Team Manager- Policy and Regulation, Public Health Agency.
10 June 2022	\$60,000	COVID-19 Response	Manager - Māori Health Insights and Monitoring
11 August 2022	\$40,000	COVID-19 Response	Manager - Māori Health Insights and Monitoring
7 March 2023	\$13,600	COVID-19 Response	Manager - Māori Health Insights and Monitoring
Total	\$229,100		

Ministry of Health

Conflict of Interest Procurement Process

Report | Internal Assurance

28 September 2023

Executive summary

Executive summary

Background

The Ministry of Health (“Ministry”) has been reviewing the identification and management of the conflicts of interest surrounding multiple contracts awarded to a company in which the Chief Executive Officer (at the time) was the partner of a Cabinet Minister and Associate Minister of Health (Hon. Peeni Henare). This internal audit considers whether the Ministry’s conflict of interest procurement processes align with good practice, and whether the Ministry’s policies and processes were complied with in the procurement of services from Tātou.

Areas considered

This report was prepared with this assistance of PwC, who was engaged by the Ministry of Health under the Consultancy Services Order dated 21 September 2022, and supporting Letter of Roles & Responsibilities Letter dated 29 June 2023 and 5 September 2023.

Our engagement considered the following:

- Developing a timeline of the conflict of interest in question, including how the conflict of interest (the conflict) was reported, and steps taken to manage the conflict. While this has already been done but an independent review would be useful, all the information is readily available
- Assessing whether the conflict was managed in line with the Ministry’s conflict of interest processes at that point in time that each contract was entered into
- Understanding the current processes and controls in place for managing procurement conflicts of interest, including whether these reflect good practice and if they are designed in a way that minimises risk to the Ministry
- Assessing the Ministry’s processes and controls around the training and awareness of the procurement conflict of interest process.

What we observed

The Ministry has established conflict of interest guidelines which set out its expectations for how staff will identify, report and manage any conflicts of interest. The intent and principles of these guidelines are aligned with public sector good practice guidance material. However, the guidance material is spread across several documents which may result in some staff being unable to locate Ministry expectations in a timely manner.

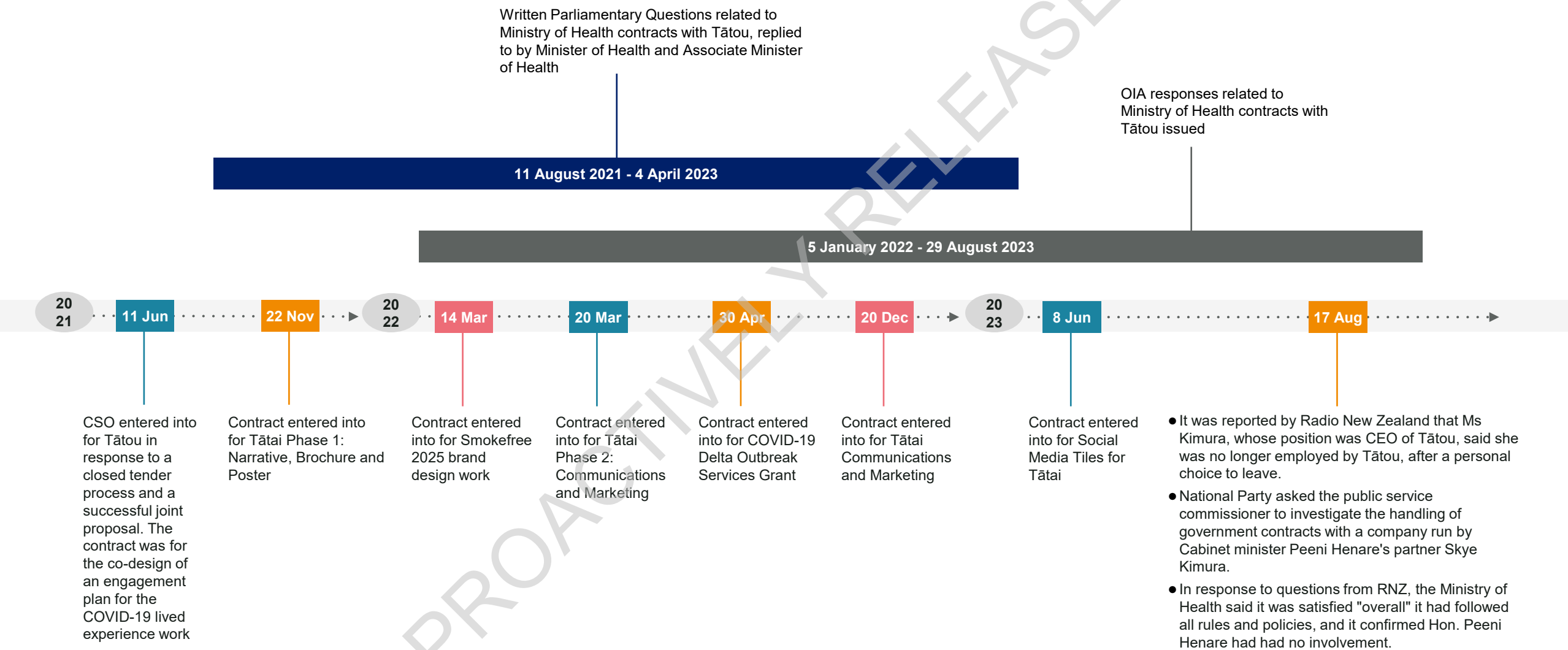
Te Kawa Mataaho Conflicts of Interest model standards were updated in December 2022 and now include a requirement to *“consider contractors’ and suppliers’ relationships with agency senior leaders and Ministers. If a conflict of interest is identified that relates to a Minister, the matter should be escalated to, and managed by, the agency chief executive in a timely way.”*

One contract with Tātou was entered into after the change to Te Kawa Mataaho model standards (Social Media Tiles for Tātai). The Ministry has not documented any due diligence checks performed to independently assess that there was no conflict of interest between the Ministry and Tātou. The (then) Chief Executive of Tātou and signatory to the contracts with the Ministry (Sky Kimura) is not a director of the company Tātou NZ Ltd. It is noted that the Ministry stands by its position that there was no involvement in appointing the contracts to Tātou by Associate Minister of Health, Minister Henare.

Ministry staff must continually give consideration to whether they have a conflicts of interest in their role or position. One such role is the procurement of goods or services on behalf of the Ministry. All individuals who are part of a procurement panel must complete a conflict of interest declaration form, noting if they have a conflict and if so how this will be effectively managed. Of the seven contracts entered into between the Ministry and Tātou, these conflict of interest declarations were not available in all instances.

The Ministry has used three different contract formats for the seven contracts with Tātou - a Consultancy Services Order, Ministry’s standard contract template modelled off the New Zealand Government Procurement template, and a Ministry Agreement. The Consultancy Services Order and standard contract template required Tātou to assess and ensure they did not have a conflict of interest with the Ministry - in all cases, no conflict was documented. The Ministry Agreement does not include any conflict of interest clauses requiring Tātou to assess whether a conflict exists between itself and the Ministry.

Timeline of key events



Detailed findings

Detailed finding 1 | Conflicts of Interest were not raised by Tātou or the Ministry during procurement or contract delivery

Risk rating

Medium

What we found

- Seven contracts have been entered into between the Ministry and Tātou:
- One contract leveraged the Consultancy Services Order template, which includes a conflict of interest declaration which must be completed by the supplier (Tātou)
 - Five contracts used the Ministry’s standard contract template, modelled off the New Zealand Government Procurement template. As part of the standard terms and conditions for these contracts, there are clauses requiring the supplier (Tātou) to determine it has no conflict of interest in providing the services or entering the contract and is required to do its best to avoid situations that may lead to a conflict of interest. The supplier is also required to immediately tell the buyer in writing if any conflict of interest arises
 - One contract was based on a Ministry developed Agreement, and does not have any conflict of interest clauses included within the terms and conditions. We were informed that this contract template is no longer used within the Ministry.

In all seven contracts, Tātou did not declare any conflict of interest.

Additionally, the Ministry’s internal procurement practices did not include a due diligence check of Tātou to determine if they were associated with the Ministry (or Minister) in any manner. As such, no conflicts of interest were raised by the Ministry regarding these contracts.

Te Kawa Mataaho Conflicts of Interest model standards were updated in December 2022 and now include: *"Conflicts can occur at an agency, not just individual, level. It is important to consider contractors’ and suppliers’ relationships with agency senior leaders and Ministers. If a conflict of interest is identified that relates to a Minister, the matter should be escalated to, and managed by, the agency chief executive in a timely way."*

We acknowledge that one of the contracts with Tātou was entered into after to the change to Te Kawa Mataaho model standards. This contract (Social Media Tiles for Tātai) should have considered Tātou’s relationships with Ministers. However, no evidence of such review or consideration is available, nor has a conflict of interest related to Tātou’s relationship with the Associate Minister of Health been raised internally.

We were informed that there is still one contract (managed within the Māori Health Directorate) where further work may be required to be completed by Tātou. If further work is delivered under this contract, a potential conflict of interest associated with Tātou should be declared.

What does good practice look like?

Te Kawa Mataaho Conflicts of Interest model standards prescribe that *"Conflicts can occur at an agency, not just individual, level. It is important to consider contractors’ and suppliers’ relationships with agency senior leaders and Ministers. If a conflict of interest is identified that relates to a Minister, the matter should be escalated to, and managed by, the agency chief executive in a timely way."* The Ministry’s due diligence process for all new suppliers should include considering the conflicts of interest of Ministers and senior leaders with the preferred supplier.

Recommendation

The Ministry should leverage People Leaders’ Updates (PLU) to remind staff of the conflict of interest guidance regarding considering conflicts of interests from the lens of contractors’ and suppliers’ relationships with agency senior leaders and Ministers. The Ministry should update conflict of interest guidance material to link to where the Minister (and other senior leader) conflicts of interest are stored, to enable these to be considered as part of procurement due diligence activities.

The Ministry should consider the level of due diligence checks it would expect to be performed as part of all procurement processes. A robust, independent due diligence checking process (resource and time intensive) should be balanced against solely relying on suppliers to identify and report their conflicts (low resource and time option but carries a highest reputational risk to the Ministry).

Management Comment

The Ministry has included reminders in PLU reminding staff of their responsibilities for conflicts of interest. (7 July 2023 and 25 August 2023)

We interpret the conflict as a perceived conflict of interest, Skye Kimura held the position of CEO, not a director of Tātou, coupled with the fact that Minister Henare had no involvement or influence in the appointment of Tātou and contracts with Tātou.

As detailed due diligence checks could be onerous, the Ministry is considering how best to ensure conflicts are identified using a risk base approach. The Ministry is also looking at ways to better educate Managers and contract managers on their responsibilities through training and education.

Expected completion date: 30 November 2023

Responsibility: Group Manager Corporate Finance, GES/Integrity, P&C

Detailed finding 2 | Conflict of interest guidance materials require updating

Risk rating

Low

What we found	What does good practice look like?
<p>The Ministry's procurement conflict of interest guidance is spread across two different intranet pages, policies, forms and supporting guidance material. Whilst the key principles of what a conflict of interest is, and how this should be managed, are consistent across all guidance material; the end-to-end conflict of interest process for procurement is not captured in a single document but instead must be pieced together by reading different guidance material. This makes it difficult for staff to quickly identify how conflicts should be managed, and ensure they are complying with all relevant Ministry guidelines.</p> <p>We reviewed the Ministry's procurement conflict of interest guidance material against good practice guidelines published by Te Kawa Mataaho, Office of the Auditor General, and MBIE Procurement guidelines. Whilst the Ministry's guidance material aligns with the key themes raised within these good practice guidelines, there is an opportunity to enhance current guidance material to better align with good practice in the following areas:</p> <ul style="list-style-type: none">Managers and other senior personnel should remain generally alert for issues affecting other people that might create a problemTo assist in identification of conflicts of interest, the Ministry should discuss with prospective contractors and suppliers any interests that may be relevant. The Ministry can determine whether those interests give rise to any conflict, which can then be recorded in a formal declarationPublic disclosure thresholds and associated guidance for conflicts of interest. <p>Additionally, we noted that the Ministry's Conflict of Interest Guidelines have no issue date on them, but use legacy Ministry branding, so could benefit from review and update (where applicable).</p>	<p>A central conflict of interest guidance document should be used to capture all Ministry expectations around how conflicts of interest should be identified, reported and documented. This document should reference other supporting guidance material, forms etc. that further reference conflicts of interest processes and requirements.</p> <p>The Ministry's conflict of interest guidance material should align with good practice guidelines published by Te Kawa Mataaho, Office of the Auditor General, and MBIE Procurement guidelines.</p> <div><div>Recommendation</div><p>Review the Ministry's conflict of interest guidance, including:</p><ul style="list-style-type: none">Opportunities to consolidate this to make key conflict of interest processes and expectations more easily accessible to Ministry staffConsider, and where appropriate incorporate, good practice areas highlighted within the Ministry's conflict of interest guidelines.</div> <div><div>Management Comment</div><p>The Ministry agrees that procurement policy and guidance could be consolidated and is undertaking the action to review and update in October when there is increased procurement resource available to lead the work. This includes updating all guidance, templates, forms and training materials with the correct Ministry branding.</p><p>Expected completion date: 30 November 2023</p><p>Responsibility: Group Manager, Corporate Finance</p></div>

Detailed finding 3 | Procurement conflict of interest training requires refreshing

Risk rating

Low

What we found

The Ministry’s communicated Conflict of Interest policy reminders via the People Leaders’ Update in July and August 2023. There is an opportunity to educate staff on and promote awareness around procurement, conflicts of interest and integrity more generally.

The Ministry also does not currently have any training for all staff regarding their obligations to monitor, raise and manage conflicts of interest (including during procurement).

What does good practice look like?

All Ministry staff are required to consider and document their conflicts of interest. As such, all Ministry staff should regularly be reminded and trained on conflict of interest guidance material available to them and how conflicts of interest should be managed.

Recommendation

The Statutory Appointments and Integrity Services team should connect with other teams in the Ministry to bring about a collective effort in building staff knowledge in these areas, including hosting an ‘Integrity week’ at some point in the future.

The Ministry should establish their own conflict of interest training for all new staff, or leverage ‘Tiakitanga – Towards Better Evaluation’ e-learning module available on Hīkina. This training should be provided to all new staff as part of their induction, and to all staff on a periodic basis (as a refresher).

Management Comment

The Ministry agrees with the Statutory Appointments and Integrity Service Team building awareness and hosting an “integrity week” in the future.

There is conflict of interest training on Te Whare as part of employee induction (Month two – three, “Managing Probity and Conflicts of Interest”). There is no specific procurement training on Te Whare for managing conflicts of interest in the procurement process, however this is something that is being considered as part of the review and update of Procurement guidance, forms, templates and training materials.

Expected completion date: 30 November 2023

Responsibility: Group Manger Corporate Finance. GES

Detailed finding 4 | Contract and procurement conflict of interest documentation should be complete and centrally stored

Risk rating

Low

What we found

Contract documentation

As part of this engagement, we reviewed the contracts between Tātou and the Ministry and noted the following contracts were signed after services had started being delivered:

- Tātai Phase 1: Narrative, Brochure and Poster (contract value \$21,500 excluding GST) - Service start date was 1 September 2021, contract was signed on 22 November 2021
- Tātai Communications and Marketing (contract value \$60,000 excluding GST) - Service start date was 1 August 2022, contract signed on 20 December 2022
- Smokefree 2025 brand design work (contract value \$83,000 excluding GST) - Services start date was 1 February 2022, contract was signed on 14 March 2022.

Additionally, a copy of the contract for COVID-19 Lived Experience Advisory Group and Strategy Development signed by the Ministry has not been able to be provided at the time of reporting.

Procurement conflict of interest documentation

Procurement conflict of interest declarations are not centrally stored by the Ministry. Instead, these are stored with relevant procurement documentation held by either the Corporate Services Procurement team, or the relevant procurement lead.

What does good practice look like?

Contracts should be agreed by both contractual parties prior to contract work commencing. Conflict of interest declarations should be stored in a central repository, ensuring these are accessible as required to demonstrate that conflicts of interest have been formally considered as part of the procurement process. This includes both Ministry declarations, and external supplier conflict of interest declarations.

Recommendation

Corporate Services should conduct spot checks across a range of contracts to provide assurance that contracts are signed prior to services commencing.

Explore leveraging the new Contract Management System as a central repository to centrally store procurement conflict of interest forms moving forward.

Management Comment

The Ministry is implementing a process to ensure that all contracts that are entered into the Ministry's contract register (Kirimana) are signed. Currently the process is time consuming, however by continued education and training it is expected that there no unsigned contracts will be entered into Kirimana.

A process to ensure the contracts are signed prior to the services commencing is a little more challenging as it is reliant on contract managers and authorisers ensuring this is done. Corporate Services is implementing a process to identify contracts that are non-compliant with our Policy and guidelines and have this reported quarterly to ELT. Identification of such contracts and continued education and training is required to eliminate or at least minimise this happening.

Data collected on contracts not compliant with our policy and guidelines will be reported to OLT quarterly with a summary of themes of non-compliance by directorate (this is alongside the other areas of compliance reporting, i.e., travel and sensitive expenditure).

Our Procurement team will work with the directorates and administrators or contract managers depending on the aspect of non-compliance, supporting them with training and education. If we identify a serious issue with the contract, we will work with the contract owner as soon as it is identified, and alert DDG (and DG as appropriate).

Kirimana also has some areas of validation that mitigate areas previously identified as pain points or controls that were lacking in using ConCare (our old contract register). The long-term plan is to have contract templates developed electronically and work flowed to DFA's, which will tighten more areas of contract management and engagement that are lacking, however timing for completing this phase is yet to be determined.

Conflict of interest (COI) forms are recorded with the tender and/or procurement documents. This ensures all suppliers COI's are recorded, not just the successful supplier.

In addition, we will review the Annual Ministers' interests register entries (which is updated for each Oct – Sept period) <https://www.dPMC.govt.nz/our-business-units/cabinet-office/ministers-and-their-portfolios/ministers-interests> (looking at Health and Associates) to assess whether any vendors we contract with are listed on the Ministers register.

Expected completion date: 31 December 2023

Responsibility: Group Manager Corporate Finance and Integrity/GES team

Appendices

Appendix A | Terms of reference

Objective and scope

The objective of this engagement was to review the Ministry's current processes and controls for conflicts of interests, if these align with the best practice and whether in the above instances, the Ministry's policies and processes were complied with, and what further improvements to the Ministry's current procurement policies and procedures may be needed to strengthen compliance.

This engagement included:

- Developing a timeline of the conflict of interest in question, including how the conflict of interest (the conflict) was reported, and steps taken to manage the conflict. While this has already been done but an independent review would be useful, all the information is readily available
- Assessing whether the conflict was managed in line with the Ministry's conflict of interest processes at that point in time that each contract was entered into
- Understanding the current processes and controls in place for managing procurement conflicts of interest, including whether these reflect good practice and if they are designed in a way that minimises risk to the Ministry
- Assessing the Ministry's processes and controls around the training and awareness of the procurement conflict of interest process.

The scope of this engagement did not consider:

- Assessment of any other conflict of interest processes outside of the procurement area
- Assessment of how the conflict of interest was handled by the Minister or other external parties
- Sample testing to assess the operating effectiveness of the procurement conflict of interest process.

Approach

Phase 1 – Understand and assess the conflict of interest in question

- We interviewed a range of key stakeholders, and reviewed a various documents (including the Ministry's internal review), to understand the timeline of events associated with the conflict of interest
- We considered the Ministry's conflict of interest processes and controls, identifying controls gaps or areas which require strengthening to minimise the risk of a similar event occurring again in the future.

Phase 2 - Understand the Ministry's procurement conflict of interest processes and controls

- We interviewed a range of key stakeholders, and review various documents, to understand the Ministry's procurement conflict of interest process
- We considered the Ministry's procurement conflict of interest process against good practice including MBIE all-of-government, PSC and OAG guidelines
- We identified process and control gaps or areas which require strengthening to minimise the risk of a similar event occurring again in the future and/or align the Ministry's processes to good practice.

Appendix B | Key personnel interviewed

We met with the following individuals as part of this engagement:

- Elisabeth Brunt (Acting Deputy Director General, Government and Executive Services)
- Stasha Mason (Manager, Statutory Appointments and Integrity Services, Statutory Appointments and Integrity Services)
- Lisa McPhail (Acting Chief of Staff)
- Carol Sander (Group Manager, Corporate Finance)
- Hayden Taylor (Development Manager Procurement, Corporate Finance)
- Fergus Welsh (Chief Financial Officer, Corporate Finance)
- Jennifer Young (Manager Crown Entity Monitoring and Appointments, Statutory Appointments and Integrity Services).
- Toni Roberts, (Manager HR Advisory)

Appendix C | Key documents considered

We reviewed the following documents as part of this engagement:

- "The Cabinet manual is clear": Simeon Brown on another potential conflict of interest
- National wants review into govt contracts awarded to firm run by partner of Cabinet minister Peeni Henare
- Members' financial interests register - 2023, 2022 and 2021
- Te Kawa Mataaho Official Information Request Response - 31 August 2023
- Memo - Situation report - Tātou
- Conflict of Interest - Guidelines
- Procurement Policy
- Procurement Guidance and Business Rules
- MOH HR Forms - Conflicts of Interest
- Contract Management Guidance and Business Rules
- Contract Management Policy
- Conflict of Interest and Confidentiality Agreement - Panel Chair
- Conflict of Interest Declaration Form - Quick Reference Guide
- Conflict of Interest Declaration Form
- Conflict of Interest Intranet Page
- COVID-19 Lived Experience Advisory Group and Strategy Development - CSO
- Tātai Phase 1: Narrative, Brochure and Poster - Contract for Service
- Smokefree 2025 Brand Design - Agreement
- Smokefree 2025 Brand Design - Variation to Agreement
- Tātai Phase 1: Communications and Marketing - Contract for Services
- COVID-19 Delta Outbreak Services Grant - Tātou NZ Ltd - Letter of Agreement
- Tātai Communications and Marketing - Contract for Services
- Tātou NZ Limited, Social Media Tiles for Tātai - Contract for Services
- COVID Lived Experience RFP
- Email correspondence regarding nature of COVID-19 Lived Experience tender method
- Smokefree 2025 brand/logo redesign RFP
- Smokefree 2025 brand/logo redesign tender response from three vendors (Tātou, gusto and Ocean Design Group)
- Procurement of design, build and operate for the proposed iwi affiliation data collection capability - Internal Memo
- Tātou Phase 1 - Internal Memo
- Agreement with Tātou NZ Limited for the Tātai Project - Memo
- Tātai Project - Memo (18 May 2023)
- Code of Conduct for the Ministry of Health
- People Leaders' Update - 7 July 2023
- People Leaders' Update - 25 August 2023
- Lived Experience Co-Design Experience - Need to Know
- NewsHub 2022 OIA
- NZME 2023 OIA
- RNZ 2023 OIA
- NZTU Amber Kearney 2022
- NZTU Connor Molloy 2023
- NZTU Jordan Williams 2022
- Written Parliamentary Questions - 34898 (2021), 38256 (2021), 41049 (2021), 20344 (2022), 33814 (2022), 33812 (2022), 33815 (2022), 33817 (2022), 35671 (2022), 9109 (2023), 9219 (2023), 9206 (2023), 8862 (2023), 8876 (2023), 8901 (2023), 9208 (2023), 9196 (2023), 9200 (2023), 9214 (2023)

Appendix D | Risk rating criteria

The tables below outline the criteria we applied to rate the risks associated with our observations.

Extreme	<p>Significant risk to achievement of business objectives, making it imperative to have strategies for managing consequences</p> <p>An observation for which the exposure arising could have a:</p> <ul style="list-style-type: none">• Highly significant impact on operational performance;• Highly significant monetary or financial statement impact;• Highly significant breach in laws and regulations that could result in material fines or consequences;• Highly significant impact on the reputation or brand of the organisation which could threaten its future viability.	High <p>A risk that can interrupt what we are doing. High risk to business objectives. High potential consequence and/or high frequency of occurrence make management strategy essential.</p> <p>An observation for which the exposure arising could have a:</p> <ul style="list-style-type: none">• Significant impact on operational performance;• Significant monetary or financial statement impact;• Significant breach in laws and regulations resulting in significant fines and consequences;• Significant impact on the reputation or brand of the organisation.
Medium	<p>A risk that interferes with the quality of what we are doing</p> <p>An observation for which the exposure arising could have a:</p> <ul style="list-style-type: none">• Moderate impact on operational performance;• Moderate monetary or financial statement impact;• Moderate breach in laws and regulations resulting in fines and consequences; or• Moderate impact on the reputation or brand of the organisation.	Low <p>Low risk to the achievement of our business objectives. Low significance.</p> <p>An observation for which the exposure arising could have a:</p> <ul style="list-style-type: none">• Minor impact on operational performance;• Minor monetary or financial statement impact;• Minor breach in laws and regulations with limited consequences; or• Minor impact on the reputation of the organisation.

PROACTIVELY RELEASED



Te Kawa Mataaho
Public Service Commission

1 September 2023

Dr Diana Sarfati
Director-General of Health
Ministry of Health

By email: di.sarfati@health.govt.nz

Tēnā koe Dī,

As you are aware, concerns have been raised with me about contracts awarded to Tātou, given the connections between the company and Hon Peeni Henare, who holds a number of Ministerial portfolios.

I understand the Ministry of Health has contracted Tātou, including two instances by the Māori Health Insights and Monitoring team. I would appreciate your assurance that appropriate procurement processes, including conflict of interest processes, have been followed by the Ministry when engaging Tātou, given the Minister's delegations in relation to the Health portfolio at the time.


I understand you have commissioned an independent assurance process for any contracts and funding with Tātou. I would be grateful if you could provide me with your assurance, a copy of any report and findings from the independent process as well as any other assurances you receive.

At this stage I have no information to suggest any impropriety. However, I would like to better understand how standard processes were applied in this case. Once I receive this information, I will decide whether I need to initiate any further action.

I am happy to discuss the matters raised in this letter with you directly. Assistant Commissioner, Bryan Dunne is also available to assist you.

Thank you for your co-operation on these matters.

Ngā mihi nui,


Peter Hughes (he/him)
Te Tumu Whakarae mō Te Kawa Mataaho
Public Service Commissioner | Head of Service

1 November 2023

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

Tēnā koe Peter,

As you are aware, Manatū Hauora (the Ministry) has been reviewing the identification and management of the conflicts of interest surrounding multiple contracts awarded to a company in which the Chief Executive Officer (at the time) was the partner of a Cabinet Minister and Associate Minister of Health (Hon. Peeni Henare).

An internal audit was commissioned to consider whether the Ministry's conflict of interest procurement processes align with good practice, and whether the Ministry's policies and processes were complied with in the procurement of services from Tātou. The internal audit was undertaken by PwC, who was engaged by the Ministry.

This review is now complete and as promised please find attached for your information a copy of the final report, with management comments and agreed actions.

As noted in the report, the internal audit review considered the following:

- Developing a timeline of the conflict of interest in question, including how the conflict of interest (the conflict) was reported, and steps taken to manage the conflict.
- Assessing whether the conflict was managed in line with the Ministry's conflict of interest processes at that point in time that each contract was entered into.
- Understanding the current processes and controls in place for managing procurement conflicts of interest, including whether these reflect good practice and if they are designed in a way that minimises risk to the Ministry; and
- Assessing the Ministry's processes and controls around the training and awareness of the procurement conflict of interest process.

The review found that conflicts of interest were not raised by Tātou or the Ministry during procurement or contract delivery. Additionally, the Ministry's internal procurement practices did not include a due diligence check of Tātou to determine if they were associated with the Ministry (or Minister) in any manner. As such, no conflicts of interest were raised by the Ministry regarding these contracts.

The review assessed the Ministry's procurement conflict of interest guidance material against good practice guidelines published by Te Kawa Mataaho, Office of the Auditor General, and MBIE Procurement guidelines. While the review found that the Ministry's guidance material aligned with the key themes raised within these good practice guidelines, there is an opportunity to enhance current guidance material to better align with good practice. Furthermore, it was noted that the Ministry's procurement conflict of interest guidance is spread across two different intranet pages, policies, forms and supporting guidance material.

The review recommended several actions for the Ministry, this included:

- Consolidating procurement policy and guidance into a central conflict of interest guidance document rather than across a number of areas of the Ministry Intranet (Te Whare), to capture all Ministry expectations around how conflicts of interest should be identified and enhance current guidance material to better align with good practice.
- Ensuring there is specific procurement training on Te Whare for managing conflicts of interest in the procurement process. Our Procurement team will also work closely with the directorates and administrators or contract managers, supporting them with training and education.
- Continue to communicate conflict of interest policy reminders via the People Leaders' Update and promote awareness around procurement, conflicts of interest and integrity more generally.
- Implementing a process to ensure that all contracts that are entered into the Ministry's contract register (Kirimana) are signed. Currently the process is time consuming, however by continued education and training it is expected that there no unsigned contracts will be entered into Kirimana.

Please be assured the Ministry is implementing these recommendations.

I am happy to discuss any of the findings of the review with your further or any additional questions you have.

Ngā mihi,



Dr Diana Sarfati
Director General of Health
Te Tumu Whakarae mō te Hauora



Te Kawa Mataaho
Public Service Commission

10 November 2023

Dr Diana Sarfati
Director-General of Health
Ministry of Health

By email: diana.sarfati@health.govt.nz

Tēnā koe Diana,

Thank you for your letter of 1 November 2023 outlining the internal audit process the Ministry of Health has undertaken following my letter to you on 1 September 2023.

In my letter I asked for your assurance that appropriate procurement processes, including conflict of interest processes, have been followed by the Ministry when engaging Tātou, given the Minister's delegation in relation to the Health portfolio at the time. I appreciate that you have provided me with a copy of the internal audit review, and are now implementing its recommendations. However, there are outstanding areas for consideration that are not covered in your response, and I do not consider that this provides the broad assurance that I requested in my letter.

To provide further assurance that the Ministry of Health's procurement processes are robust, I would appreciate you giving further consideration to a number of procurement matters.

As discussed yesterday with Assistant Commissioner, Jane Lee, I would appreciate if you could provide me with an overview of the specific processes that were undertaken each time Tātou was engaged by the Ministry of Health and an assessment of whether each process followed the Ministry of Health's internal guidance and the Government procurement principles and rules (where required).

As indicated this assessment should consider:

- an assessment of whether a perceived conflict of interest should have been identified by the Ministry of Health. If so, what steps should have been taken to ensure any perceived conflicts were assessed, and if required mitigated, including documenting the considerations to ensure best practice procurement processes were followed;
- if the decision to directly source Tātou for additional contracts (following an initial competitive process) was documented followed MoH's procurement policies and any relevant Government procurement principles and rules;
- whether the Ministry of Health's processes and Government procurement rules were followed when the cumulative value of contracts awarded to Tātou exceeded the threshold for the Government procurement rules to apply;

- what, if any, improvements could have been made to these specific procurement processes to ensure best practice was followed, and how any identified improvements will be incorporated into procurement practices going forward;
- any other matters, you believe provide relevant context.


It is important that all aspects of the procurement process are considered, not just conflict of interest. This will provide assurance that procurement processes are being undertaken to the high standards we expect from the Public Service.

Should you require support to undertake this process, I encourage you to engage with the New Zealand Government Procurement team at the Ministry of Business, Innovation and Employment.

Jane will also be available to provide you with support.

I would be grateful if you could provide me with a response by Wednesday 15 November 2023.

Ngā mihi nui



Peter Hughes (he/him)
Te Tumu Whakarae mō Te Kawa Mataaho
Public Service Commissioner | Head of Service

133 Molesworth Street
PO Box 5013
Wellington 6140
New Zealand
T+64 4 496 2000

15 November 2023

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

Ref. H2023032954

Tēnā koe Peter,

Thank you for your correspondence of 10 November 2023 about Manatū Hauora | Ministry of Health (the Ministry) procurement processes.

The following responds to those areas of further assurance you have sought regarding appropriate procurement processes, including the conflict of interest processes followed by the Ministry when engaging Tātou. You have requested an overview of the specific processes that were undertaken each time Tātou was engaged and an assessment of whether each process followed our internal guidance and Government procurement principles and rules.

My expectation is Ministry staff will ensure they follow all internal guidance and Government procurement principles and rules. I was disappointed these expectations were not always met.

In summary as outlined in the information below, it was clear that:

- Tātou did not declare the perceived conflict of interest at the time the contracts or variations were entered. This declaration by the supplier is an integral part of the procurement process.
- Once the perceived conflict of interest came to the attention of Ministry staff, they should have implemented the required processes to manage such a situation.
- The last contract variation was entered into after the perceived conflict of interest was identified. This was also after Te Kawa Mataaho's model standard on procurement conflicts of interest were updated. This matter should have been brought to my attention, and the management and mitigation of the perceived conflict of interest documented.
- A procurement exemption to opt out of open advertising was not completed at the point the cumulative value of the contract was more than \$100,000. This contract would have met the criteria for an exemption if the process had been undertaken.

- There were instances where the contract was signed after the commencement of the services.

The procurement processes for other aspects of the contracts largely followed Ministry and government procurement principles and rules.

The Ministry has since undertaken a substantial amount of work to make sure our procurement processes are aligned with All-of-Government procurement rules and guidance. Our work to improve performance in this area is discussed further below.

I am also writing to my executive team to outline my expectations regarding compliance with our internal process and best practice for procurement, management of conflicts, and sensitive expenditure.

An overview of the specific procurement processes undertaken each time Tātou was engaged is in the table below.

Item	Description	Procurement process undertaken	Value \$
1	COVID 19 Lived Experience Group - Co-design of engagement plan for the lived experience group	Closed competitive process undertaken resulting in an All-of-Government Consultancy Service Order.	11,000
2	Tātai Phase 1: Narrative, Brochure and Poster Tātai is a website and solution for collecting Māori iwi affiliation data	Competitive process using preferred panel supply model – three suppliers were considered, and two proposals received. The successful proposal was a joint proposal from Alpherio Limited partnering with Tātou NZ Limited. The Ministry then contracted Tātou directly to manage each provider separately (rather than subcontract through Alpherio, resulting in the Ministry securing better rates).	21,500
3	Smokefree 2025 Brand design	Competitive process (request for quotes) with evaluation panel awarding the contract to Tātou, resulting in a Standard All-of-Government contract for services.	83,000
4	Tātai Phase 2: Communications and Marketing	Direct source - building on the work completed in Phase 1.	60,000
5	COVID-19 Delta Outbreak Services. Tātai Communications and Marketing	Direct source - building on the previous work completed in Phase 1 and 2.	40,000
6	Tātai Communications and Marketing	Direct source - building on the previous work completed in Phase 1 and 2.	60,000
7	Social Media Tiles for Tātai	Direct source - building on the work completed in previous phases	19,740

I will respond to each of your specific questions raised in your letter, below:

1. *Whether a perceived COI should have been identified by the Ministry of Health and if so, what steps should have been taken to ensure any perceived conflicts were assessed, and if required mitigated including documenting the considerations to ensure best practice procurement processes were followed.*

The Ministry agrees the perceived conflict should have been identified.

Minister Henare was not involved in any of the procurement decisions relating to Tātou. However, as required under our procurement rules, we would have expected Tātou to recognise and declare the perceived conflict. Tātou signed all contracts acknowledging that it had read and agreed to be bound by the contract. The contract agreement includes terms and conditions which meet the standard All-of-Government procurement guidelines for conflicts of interest.

By signing the contract, the supplier warrants they have no conflict of interest in providing the services or entering the contract. Further, the supplier must do their best to avoid situations that may lead to a conflict arising and advise the Ministry immediately in writing if a conflict does arise.

If the Ministry had identified the perceived conflict, then this should have been noted in the contract register or put on file with the other documents relating to the contract and documented what actions, if any, were being taken to manage and mitigate the perceived conflict. While at the time the original contracts were entered into this relationship may not have been known, it was clear from July 2023 when Simeon Brown MP first raised this issue, that a perceived conflict of interest may have arisen. At this point steps should have been taken immediately to manage this in accordance with Ministry internal guidance and the AoG Principles and Rules. This did not occur.

Item 7 in the above table, was entered into after the perceived conflict of interest was identified. This was also after Te Kawa Mataaho's model standard on procurement conflicts of interest with a Minister were updated, requiring these to be communicated to the chief executive, and the management and mitigation of the conflict of interest documented. This process was not followed in this instance.

2. *If the decision to source directly for additional contracts was documented followed MoH's procurement policies and any other relevant AoG rules*

I have interpreted this question as asking if variations to existing contracts followed the Ministry's procurement policies and any other relevant All-of-Government rules.

There were five subsequent contract variations relating to the work provided by Tātou (items 2,4,5,6 and 7 in the above table) and they were all for work relating to Tātai, a website and solution for collecting Māori iwi affiliation data. The specific examples where the Ministry's procurement policy and guidelines were not met:

- The initial contract was signed after the contract for service period had commenced. While these services were sourced through a competitive process and were not direct sourced, the contract negotiations should have been completed and the contract signed ahead of services being provided.

- A procurement exemption (Rule 14 of All-of-Government Procurement Rules) to opt out of open advertising was not completed at the point that the cumulative value of the contract was more than \$100,000. Our subsequent assessment is that had the appropriate exemption been sought as required, the contract would have met requirements for an exemption.
 - The fourth variation to the contract was signed after the commencement of services.
 - The fifth variation was entered into after the perceived conflict of interest was identified. This was also after Te Kawa Mataaho's model standard on procurement conflicts, including Minister's conflicts of interest, were updated. This new process was not followed.
3. *Whether the Ministry's processes and procurement rules were followed when the cumulative value of contracts awarded to Tātou exceeded the threshold of the Government procurement rules*

As noted above in relation to Rule 14 of the All-of-Government Procurement Rules, the Ministry's procurement rules and processes were not followed in this instance when the cumulative contract value met the \$100,000 threshold.

4. *What improvements have been made to ensure best practice?*

The Ministry has since undertaken a substantial amount of work to make sure the procurement processes, rules and guidance align to best practice and the All-of-Government rules and guidance are robust and followed.

This includes:

- Updating our policies and guidance to ensure they meet audit and All-of-Government requirements in particular relating to conflict of interest and cumulative contract value and are easier for staff to access and interpret.
- Contract manager training on our procurement responsibilities and processes is being run in November.
- Reviewing our Procure to Pay process to clarify roles and responsibilities and ensure education and training in the end-to-end process to ensure all staff involved in procurement.
- Implementation of a new contract register in July 2023 that has checks and prompts to help with compliance and compliance reporting.
- The development of compliance reporting to the Ministry's Operational Leadership Team summarising themes of non-compliance and to raise visibility of procurement related issues.
- Establishing monthly review of purchase orders raised to check if correct process is being followed.
- Updating information for users on intranet including guidance and templates to ensure easier access and understanding.

- Increased communication on the procurement process and conflict of interest relating to procurement, including who to contact for advice and guidance.
- Communication relating to procurement process and conflict of interest in our *People Leaders Updates*.

5. *How are they being incorporated into the procurement practices going forwards?*

I have asked my Office to ensure there will be a continued communication of the procurement process and expectations of contract managers and staff involved in the process. We are looking at ways to include targeted training and education to those involved in the contracting and procurement process.

The Ministry's Operational Leadership Team will be receiving a quarterly review of conflicts of interest summarising themes of non-compliance. If we identify a serious issue with a contract, we will work with the contract owner as soon as it is identified to rectify the issue, and alert appropriate leaders.

I agree that in respect of Tātou, the Ministry has fallen short of the processes we have in place for procuring services. I understand the impact this can have on our reputation and importantly, the trust and confidence New Zealanders expect of the public service.

We are implementing the recommended findings from the PWC review alongside Audit New Zealand's recommendations arising from the recently completed 2022/23 external audit to ensure procurement policy is clearer and more comprehensive.

I am confident the updated procurement processes are robust, and the improved processes are of a high standard and will meet expectations going forward

Nāku noa, nā



Dr Diana Sarfati
Director-General of Health
Te Tumu Whakarae mō te Hauora

PROACTIVELY RELEASED