



AIDE MEMOIRE

Options for engaging third parties to support the Provincial Growth Fund

Date:	3 May 2019	Priority:	Medium
Security classification:	In Confidence	Tracking number:	2869 18-19

Information for Minister(s)

	Action sought	Deadline
Hon Shane Jones Minister for Regional Economic Development	Note the contents of this briefing	9 May
Fletcher Tabuteau Parliamentary Under-Secretary to the Minister for Regional Economic Development	Note the contents of this briefing	9 May

Contact for telephone discussion (if required)

Name	Position	Telephone	1st contact
AJ Millward	General Manager, Strategy and Governance		Privacy of natural persons
Susan Baas	Manager, Risk, Assurance & Governance	04 901 8215	Privacy of natural persons ✓

The following departments/agencies have been consulted

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Minister's office to complete:

- | | |
|-----------------------------------------------|----------------------------------------------|
| <input type="checkbox"/> Approved | <input type="checkbox"/> Declined |
| <input type="checkbox"/> Noted | <input type="checkbox"/> Needs change |
| <input type="checkbox"/> Seen | <input type="checkbox"/> Overtaken by Events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn |

Comments

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Purpose

To provide information on different options for engaging third parties to support the Provincial Growth Fund (PGF), particularly to ensure that projects are completed successfully.

Recommendations

The Ministry of Business, Innovation and Employment recommends that you:

- a **Note** the contents of this briefing.

Noted

Privacy of natural persons

AJ Millward
**General Manager, Strategy and
 Governance**
 Provincial Development Unit, MBIE

03 / 05 / 19

Background

1. There is currently a need to engage third parties to provide expertise or oversight to ensure that PGF projects are completed successfully. In this context, we thought it useful to clarify the different options and processes for the Minister, the Provincial Development Unit (PDU) or a funding recipient to engage third parties to support the PGF.

Options for appointing people

2. In general, there are suitable options available for each of the Minister, the PDU or the funding recipient to engage a third party to support PGF projects, depending on the circumstances.

Options for the Minister to engage third parties

3. There are two situations in which the Minister might engage a third party. These are:
 - a. Appointment by the Minister for advisory or governance roles. These can be via direct appointment for the most minor of appointments (a potential example might be nomination to a minor and unpaid position) but they are typically via the Appointments and Honours Committee of Cabinet (APH).
 - b. Engagement by the Minister or Ministers of a third party to perform services where those services are required specifically by the Minister(s) (e.g. legal advice required by RED Ministers).

Minimum process and timeframes

4. If an appointment is required and is considered minor, the appointment can be made by him (or her). Direct appointment can occur very swiftly. A matter of days is not unrealistic. The administration and processing for this would be done by the Minister's office and Parliamentary Services.
5. Any appointment that is not minor should be made through the APH. This provides rigour to decision making and protects both the Minister and agency involved. The APH process typically takes around three months to complete, or longer if the matter is contentious. It requires preparation of a briefing paper to Cabinet and terms of reference. Fees are prescribed and outlined in the Cabinet Guide.
6. If a Minister wishes to contract a third party to provide services to support him or her, there would be an expectation that Government procurement rules ought to apply (refer paragraph 9 below).

Options open to the PDU or funding recipient

7. The options open to the PDU or funding recipient to engage third parties are:
 - a. Engagement by PDU for consultancy services – typically for specific services (e.g. expert advice).
 - b. Engagement by PDU as a contractor – typically normally for a specific length of time, rather than for a specific outcome (e.g. commonly used to deliver a programme of work or back fill for a role an employee would carry out).
 - c. Engagement of a consultant or contractor by a funding recipient – to provide governance, technical or other support because the recipient lacks or requires this expertise.
8. When choosing which option to use, it is important to ask – what is the nature of the services that are required, and to whom will they be provided? For example:
 - a. Are the services an extension of the PDU's work to manage and oversee PGF contracts? or
 - b. Are the services part of the funding recipient's work?
9. In general, the options that are most likely to be used are:
 - a. If the services are an extension of the PDU's work to manage and oversee PGF contracts then the PDU should engage a consultant or contractor. Government



procurement rules apply to such appointments. Key considerations and timelines are:

- i. If the services fall within an All of Government (AoG) category (e.g. consultancy services) and a non-AoG provider will or might be used, then a procurement exemption is needed, which needs full justification.
- ii. Unless an exemption is granted, AoG engagements over \$100,000 also require open advertising, which takes a few weeks.
- iii. AoG engagements, or non-AoG engagements below \$100,000, can be relatively quick.

Under any scenario, the procurement process used for, and cost of, a consultant or contractor should be able to fully withstand public scrutiny (given it represents the use of taxpayer funding appropriated by Parliament).

- b. If the services are part of the funding recipient's work, the recipient should engage the provider. Government procurement rules do not apply.

Next steps

10. Further detailed information on each of the options can be provided upon request.