



External Legal Services All-of-Government Contract Buyers' Guide

External Legal Services Centre of Expertise

The External Legal Services All-of-Government panel contracts are managed by a dedicated team called the Centre of Expertise. Its contact details are as follows:

External Legal Services - Centre of Expertise
Commercial Solutions Branch
Ministry of Economic Development
PO Box 1473
Wellington

If you have any questions in relation to the operation of this contract, please contact:

Michael Osborne
Senior Procurement Analyst
External Legal Services - Centre of Expertise
Phone: +64 (0)4 474 2993
Email: ELS@med.govt.nz

Feedback on this guide

We want to ensure that this guide provides you with all the information you need to use the External Legal Services All of Government contract. We're interested in your views on what works well and what we could improve – so please provide feedback by contacting us at: ELS@med.govt.nz

Version control

Version	Date	Modifications
Version 1.0	23 Dec 2011	
Version 1.1	07 Feb 2012	Changes clarifying the use of the LSO for obtaining quotes (page 11). Updated website links for key documents (Appendix 4). Changes to LSO template (Appendix 5). Changes clarifying secondments as a value added service (Appendix 6).

First published December 2011

Commercial Solutions Branch | Ministry of Economic Development

PO Box 1473 | Wellington | New Zealand | www.med.govt.nz | www.procurement.govt.nz

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This guide is one in a series of guides that has been developed under the New Zealand Government Procurement Reform Programme. Individual Buyers' Guides have been developed for each All-of-Government Contract and for the Government e-Marketplace.

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Eligible Agencies

The government agencies that are eligible to buy from the AoG contracts are:

- Public Service departments
- State Services agencies
- organisations in the wider State sector
- organisations in the wider Public sector

Participating Agencies

An Eligible Agency becomes a Participating Agency when it signs up to using the AoG panel contracts. This involves signing a Letter of Accession to the Memorandum of Understanding with the Centre of Expertise.

Introduction

This guide is designed to provide government agencies with the information they need to buy from the All-of-Government (AoG) External Legal Services (ELS) panel contracts.

It provides an overview of:

- the key benefits of buying from the AoG contract
- how agencies transition to the AoG contract
- how AoG contract and relationship management works
- the range of services you can buy
- how to purchase from the panel
- the contract terms agreed to by Providers.

External Legal Services

The AoG ELS panel contracts have been let by the Ministry of Economic Development on behalf of government agencies. They are managed by a dedicated team called a Centre of Expertise (CoE) based in the Ministry.

The panel contracts commenced in December 2011 for an initial term of two years. They are due to expire in December 2013. They are subject to two further rights of renewal for two years each (i.e. 2+2+2 years). This initiative is part of the Government's Procurement Reform Programme. For further information on AoG contracts visit: www.procurement.govt.nz

Eligible and Participating Agencies

An Eligible Agency which wishes to purchase from the ELS panel of providers (Providers) must formally sign up to the AoG contract. Once the agency has done this it is called a Participating Agency. Participating Agencies can then purchase their external legal services from one or multiple suppliers on the list of panel Providers.

Panel Providers

Panel contracts for external legal services have been awarded to 38 legal Providers. This pool of specialist Providers offers a variety of legal services in the following seven key areas of law. A detailed breakdown of sub-areas is listed at page 8.

Areas of law	Number of Providers
Banking and Finance	8
Corporate and Commercial	14
Employment	11
Environmental and Resource Management	12
Litigation	8
Property	9
Public	13

The following is a list of the panel Providers in alphabetical order:

A J Park	Jonathan Kaye Law
Anderson Lloyd	Kensington Swan
Baldwins	Kiely Thompson Caisley
Bell Gully	Lane Neave Lawyers
Best + Hancock (a consortium of sole practitioners)	Luke Cunningham & Clere
Buddle Findlay	Macalister Todd Phillips
ChanceryGreen	Mayne Wetherell
Chapman Tripp	Meredith Connell
Chen Palmer New Zealand Public and Employment Law Specialists	Minter Ellison Rudd Watts
Cullen Employment Law	Morrison Kent
DLA Phillips Fox	Mortlock McCormack Law
Duncan Cotterill Lawyers	Power Law
Dyhrberg Drayton Employment Law	Preston Russell Law
Ellis Gould	Robert Buchanan Public Law
Elwood Law	Russell McVeagh
Fiona Wakefield, Barrister and Solicitor	Simpson Grierson
Franks & Ogilvie	Vicki J. Owen, Barrister and Solicitor
Genevieve Gill, Barrister & Solicitor	Webb Henderson
Greenwood Roche Chisnall	Wilson Harle

The benefits

There are a number of benefits for government agencies when purchasing under the ELS AoG panel contracts. These are not just cost savings.

What stays the same?

On a day-to-day basis using the contract will feel pretty much like business-as-usual for agencies. You'll still:

- have a comprehensive range of top New Zealand Providers to choose from - the panel includes a range of small, medium and large legal Providers across seven key areas of law
- have complete freedom to choose the individual Providers that you want to use
- deal directly with Providers by instructing legal services and making payments.

What's different?

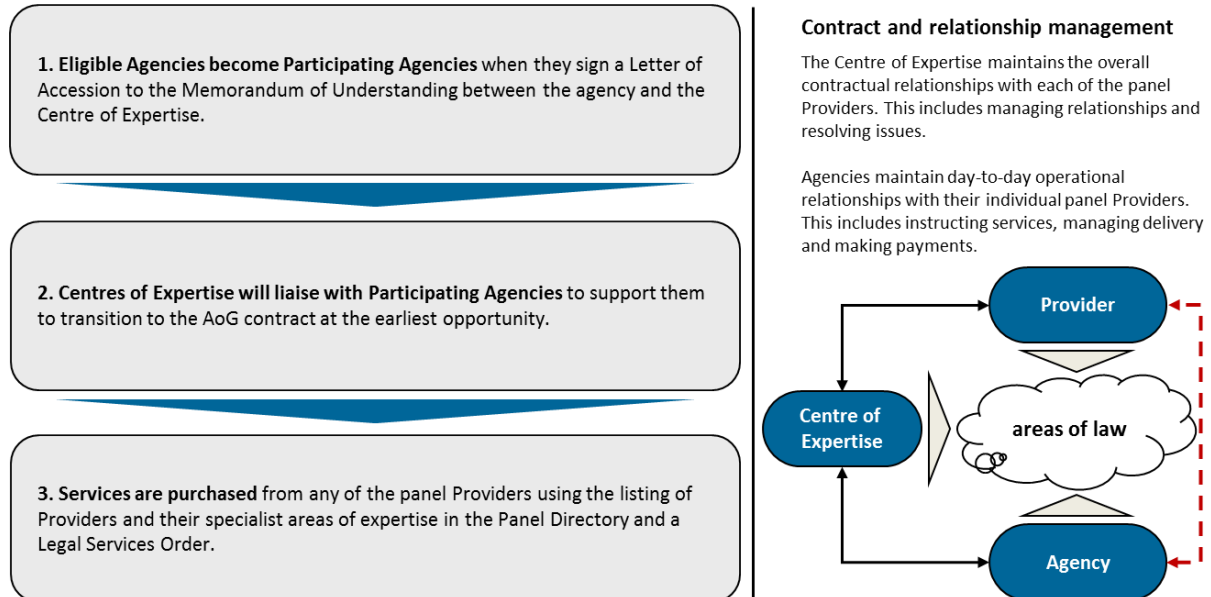
There are several key changes including improvements and value-add benefits for agencies. These include:

- you're spared the time and cost of running your own procurement process
- the ELS CoE manages all panel contracts with the Providers
- you'll save money through competitive rates - we've used the collective buying power of the State sector to negotiate 'best price contracts'
- we factored in past agency client satisfaction to the selection of Providers so as to ensure that you get only the best Providers
- key information about each Provider - their specialist areas of law, capabilities, expertise and hourly rates are available for comparison – this helps you make informed choices and get the best services to meet your business needs

- you'll be able to assess value-for-money by comparing hourly rates
- all panel Providers meet the minimum requirements of the New Zealand Law Society code of conduct in the *Lawyers and Conveyancers Act 2006*
- you'll have access to consolidated reporting on your agency's external legal services spend, including:
 - detailed reporting from Providers covering both the delivery and costs of specific legal services – this gives you the ability to compare the relative costs and quality of performance across Providers
 - monitor your expenditure relative to other agencies - this allows you to benchmark your performance against similar business units within other agencies
- you'll be able to demonstrate how your agency is driving better value-for-money across government – the ELS AoG contracts offer significant combined savings across the State sector.
- you will have access to many free value-added services from any Provider you choose to engage, These are listed at Appendix 6.

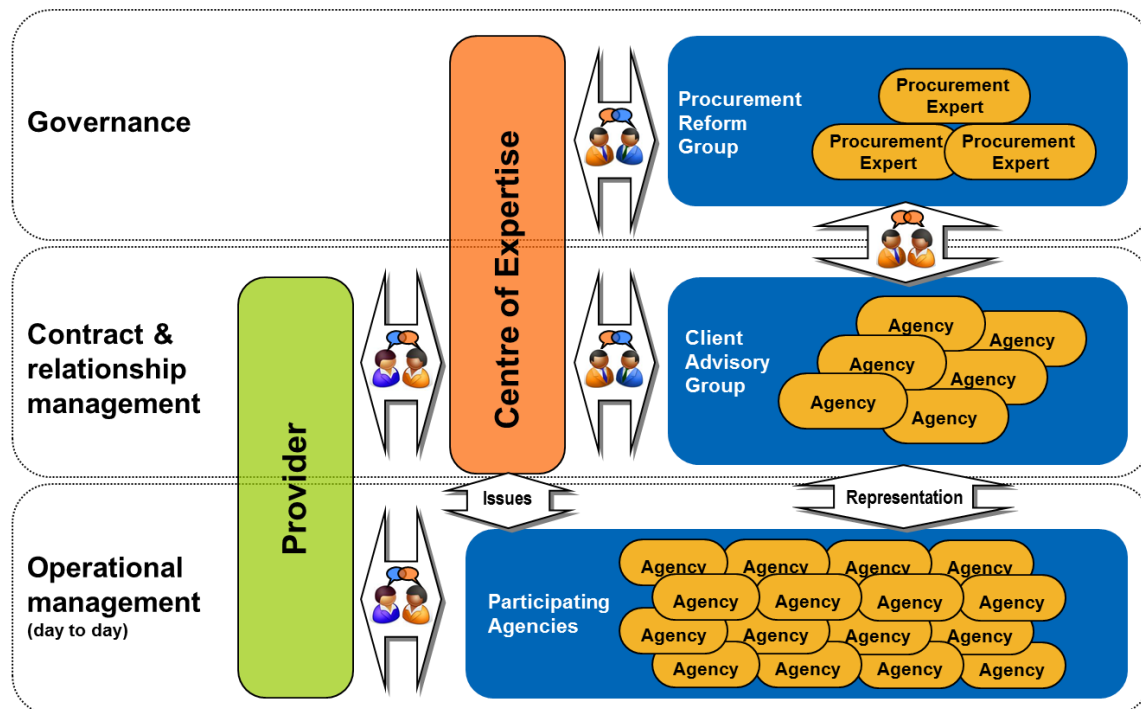
How to transition

The process for agencies to transition to using the ELS AoG panel Providers is the same as every other AoG contract. The following diagram outlines the steps.



Relationship management

The diagram below sets out the overall governance structure and shows the various working relationships. Please see the All-of-Government Contract Buyer's Guide for more details on the roles and responsibilities.



Out of scope Category 1 legal services:

- Advice in relation to litigation to which the government is a party
- Legal services involving questions on the lawfulness of the exercise of government power
- Constitutional questions including Treaty of Waitangi issues
- Issues relating to the enforcement of criminal law
- Legal issues relating to protection of government revenue.

Range of legal services

Before going to market we established a Client Advisory Group (CAG). This group of legal practitioners was drawn from a range of Public sector agencies. We worked extensively with the CAG to develop the business requirements to be covered by the legal services panel.

As a result the panel offers a diverse range of legal services. The seven key areas of law were identified by CAG as covering most agencies' needs most of the time. However, if you have a specific legal requirement that is not covered by the available specialist Providers you can work with the Centre of Expertise to purchase these services from another supplier who is not a panel Provider.

Category 1 exception

The panel does not cover Category 1 legal services as described in the Cabinet Manual. The Cabinet Manual states that:

No Crown Solicitor or other lawyer in private practice is to be instructed by any department in respect of requirements for legal services of a kind covered in Category 1.

Areas of law

Areas of law offered by the panel of specialist Providers include the following:

Areas of law	Sub-areas of expertise
Banking and Finance	<ul style="list-style-type: none"> Capital Markets and Securities Finance; including structured, project and infrastructure, and venture capital financing Funds Management Insolvency Insurance Tax (non-Category 1) Other (Banking and Finance)
Corporate and Commercial	<ul style="list-style-type: none"> Competition Consumer Contract and Tendering Corporate Governance; including companies, partnerships etc. Information Technology Intellectual Property Joint Ventures / Public Private Partnerships Overseas Investment Takeovers, Mergers and Acquisitions Other (Corporate and Commercial)
Employment	<ul style="list-style-type: none"> Collective Employment and Bargaining General Employment Health and Safety Superannuation and KiwiSaver Other (Employment)
Environmental and Resource Management	<ul style="list-style-type: none"> Agriculture and Forestry Conservation Environment, Water and Energy Fisheries Minerals and Petroleum Planning Other (Environmental and Resource Management)
Litigation	<ul style="list-style-type: none"> Dispute Resolution General Litigation (non-Category 1)
Property	<ul style="list-style-type: none"> Maori Land Law Public Works Act Sale and Purchase of Land, and Leasing

Areas of law	Sub-areas of expertise
	Subdivision
	Other (Property)
Public	Conflicts of Interest/ Governance
	Crown Entities Act
	Human Rights and International Obligations
	Judicial Review
	Legislation / Regulatory Drafting and Policy Development
	Privacy and Official Information Requests
	Public and Administrative
	Treaty of Waitangi
	Other (Public)
Other	Health / Medical
	Immigration
	Personal Injury and ACC
	Welfare
	Any area not contained in another area of law

How to buy

In order to help you make informed decisions and make it easy to purchase from the panel we have developed the following documents and tools:

- Panel Directory
- Value-for-money ranking
- Effective hourly rate
- Legal Services Order
- Benchmarking Report

These will be available at a secure site online and access will be given to Participating Agencies once the Letter of Accession has been signed. We recommend that agencies use these documents and tools because they offer:

- easy access to comprehensive information on each Provider
- an ability to compare Providers on cost and quality and select the best one that meets your needs
- a method of instructing external legal services through a standardised order form which is convenient, easy to use and will help you develop consistent specifications for your legal requirements
- improved centralised reporting on your agency's expenditure and usage of external legal Providers which allows you to improve control over the procurement of legal services within your agency.

Panel Directory

We have established a Panel Directory containing comprehensive information on all Providers. This is hosted within a secure area on the <https://see.govt.nz/legal/panel/default.aspx> website. Personnel from your agency will be given access to this area of the website.

Please note that aspects of the Provider's contract details are commercially sensitive and are provided in confidence - especially hourly rates and alternative pricing. This information must not be discussed with or disclosed to third parties or shared with other Panel Providers. The Panel Directory provides the following information on each Provider:

- areas of legal specialisation
- size and composition of team
- hourly rates
- value-for-money ranking in each area of legal specialisation
- any unique offers to clients, such as value added services or innovations
- location
- contact details.

Value-for-money ranking

This is a tool that helps you assess overall value-for-money. Following the evaluation of tenders we developed a value-for-money ranking for each Provider. This is a figure which is based on a combination of the Provider's price score and quality score. In the comparison pages of the Panel Directory, panel Providers are listed in order of their value-for-money ranking in each of their specialist areas of law. This allows you to make comparisons across Providers.

Effective hourly rate

This is a tool which provides a measure of a Provider's effectiveness. It is done retrospectively following the completion of a piece of work. The effective hourly rates takes into account the total cost of the piece of work and the time taken to deliver it. It is calculated as total cost divided by number of hours.

Legal Services Order

A Legal Services Order (LSO) template is available at the www.procurement.govt.nz website. An example is included in Appendix 5. To avoid delays in the fulfilment of orders the template should be completed in full before seeking an estimate from a panel Provider.

You will complete Part A of the LSO. The information required includes:

- a summary of the legal issue
- specific instructions or nature of the opinion sought
- expected service delivery date
- any expectations regarding price
- your contact person.

Send the completed Part A to the Provider who will then complete Part B. The Provider will nominate a lawyer to undertake the work, provide a conflict of interest declaration and an estimate of the costs.

Benchmarking Report

We will collate quarterly Benchmarking Reports. The Reports are based on work completed by Providers. The purpose is to provide agencies with up to date information on the comparative costs and quality between Providers. Each Report will provide a summary of purchasing for the period and highlight key metrics related to the effective hourly rates and quality assessments completed by agency buyers.

The Reports will also include information allowing agencies to benchmark their own performance relative to other agencies of a similar size.

Provider selection processes

The procurement process that established the AoG ELS panel has satisfied the mandatory requirement to offer full and fair opportunity to the legal services market to participate in government legal business for the duration of the panel contracts.

Your subsequent selection of a Provider from the panel is based on the **'reliability and expertise'** method, as described in the **OAG Guidelines**. This method of distributing work amongst panel Providers means that you select the Provider you believe is the most suitable to meet your business needs, who is available and does not have a conflict of interest.

Direct selection or mini-tender?

At all times you should seek to obtain the best value-for-money.

Having obtained the list of possible Providers you have the option of either directly selecting the most appropriate Provider to meet your business needs or short listing more than one Provider and conducting a mini-tender by asking them all to quote for the work.

You may use the LSO to obtain a quote from more than one panel Provider. You need to make it clear to Providers that you are seeking a Quote, and not placing an Order. To do this, replace the header with Legal Services Quote and be clear in your covering instructions to Providers that you are seeking a quote from one or more panel Providers.

Alternatively, your Agency may have a Request for Quote template that you can use for the same purposes.

Complete and send the LSO to the Provider/s in order to check that they are available to undertake the work and have no conflict of interest, and to obtain a quote. It is important that you are able to demonstrate value-for-money in your selection of Provider.

How to select from the panel

Log onto the secure AoG ELS area on the <https://see.govt.nz/legal/panel/default.aspx> website. Start by opening the Panel Directory. You will then be shown a list of all Providers offering services in each area of law together with comparative information allowing you to make an informed purchasing decision. The information available includes:

- sub-areas of law
- hourly rates
- effective hourly rate for each Provider
- size of the teams
- previous agencies' satisfaction scores
- office locations.

When to use a preferred Provider

It some instances it may be appropriate to approach a single preferred Provider, for example:

- where a Provider is required to provide short term assistance on a matter less than \$3,000 (excluding GST) in total value
- where the work is the continuation of a previous piece of work and it is important to engage the same Provider or it is more time efficient and cost effective to do so
- if a Provider has unique and specialist expertise or knowledge, such as
 - specialist knowledge of an agency programme or initiative, or
 - particular knowledge of an agency programme or initiative combined with particular networks (e.g. iwi networks).

Instructing a Provider

Before instructing a Provider ensure that the proposed Provider:

- has no conflicts of interest
- has an appropriate level of expertise for the work they are asked to undertake.

Pricing options

There are various pricing options available under the AoG panel contracts.

The general rule is that Providers are required to provide a quote or fixed fee estimate for any matter that may be worth more than \$3,000 (excluding GST).

As a general principle, panel Providers are expected to have sufficient experience in pricing and delivering their services to be able to estimate the price of their services in the same way other service providers can such as doctors, dentists, architects, engineers and accountants. Pricing options include the following:

Pricing option	Explanation
Fixed price or capped fee	A fixed price lump sum or maximum capped fee is agreed prior to any service delivery. This method is commonly used when the scope of work is reasonably understood by both parties. The advantage of fixed fee billing is that it you know how much the legal services will cost, or in the case of capped fees, the maximum you will pay. This provides certainty for budgeting purposes and to make it easier for you to compare quotes from different Providers.
Value billing	Similar to a fixed price in that a lump sum price is agreed. However, with value billing the fee is based on the agreed value received by the agency after the Service has been delivered. It may be that a fixed fee component is agreed prior to work commencing and an 'at risk' component of the fee is agreed based on the agency's perception of the value of the Service delivered.
Hourly rates	This can be used where there is uncertainty around the scope of work or where it is a short term piece of work likely to be worth less than \$3,000. The Provider bills for the number of hours spent in delivering the Services. Unless you agree a capped total this can present risk as the price is open-ended. It is best used for short pieces of work where the price risk is low and the agency is happy to bear the risk of price increases due to scope uncertainty. It is also sometimes used when the scope of a legal matter cannot be ascertained, until the scope is clearer, or when fixed fees might apply.

Blended hourly rate	<p>Similar to hourly rates, this is where the total hourly rates of individual team members are averaged to establish a single rate for the legal team as a whole. The advantage of agreeing a blended rate is that you pay the same hourly rate, regardless of who delivers the services. This means that should more senior time be required, you do not pay a higher hourly rate for their time.</p>
Retainer	<p>A retainer can be an effective solution where an agency has a fixed budget for legal services and a steady demand for a particular type of service. It provides certainty to both the agency and the Provider, is easy to manage and encourages creativity to achieve the objectives.</p> <p>The agency pays a retainer to a Provider (which is effectively a fixed fee) to deliver legal services for an agreed period of time, say 12 months. All services are provided for that period for the price of the retainer and at no additional cost to the agency.</p> <p>The Provider bears the risk if the volume of work is greater than anticipated. For an agency it means that all services are delivered within a known budget. To use this method, previous annual expenditure and a breakdown of work type is a useful basis for forecasting the likely level of work and fees for the anticipated period of the retainer. Once the likely volume is identified both parties need to clearly articulate what is included and how any variations will be managed.</p>
Volume based discount	<p>For large projects which are unable to be accurately scoped in detail at the outset, but where there is a strong expectation that significant legal services will be required, a Provider may consider a one-off percentage reduction in their hourly rates.</p> <p>Using discounted hourly rates for significant projects enables Providers to be competitive within the panel. It also allows flexibility of scope and resources during the life of the project, while a discounted rate structure delivers quantifiable value and demonstrates the Providers' commitment to a long term relationship with the agency. Implementation of this pricing structure involves meeting with possible Providers to understand the project, its objectives and the desired outcome.</p>

Buying legal services outside the Panel

You can, in certain circumstances, purchase legal services from a supplier who is not on the panel. You must be able to demonstrate that there is no suitable or available Provider on the panel. Reasons can include:

- there is a conflict of interest for panel Providers in the required area of law, and no other panel Provider operating in another area of law can provide the Services
- the Services are in an unusual specialist area and no panel Provider has the requisite depth of experience in that specialised area.

If you need to purchase outside of the panel:

- it is expected that you will have your Chief Legal Advisor's, General Counsel (or equivalent suitable manager) or Chief Executive's approval
- you should inform the CoE in writing before instructing an alternative legal services supplier - you should include the reasons justifying the need to purchase outside of the panel, your proposed alternative supplier, an estimate of the value of the work and confirmation that you have the appropriate approval to proceed and the final cost of the matter.

You can still use the LSO template for instructing these services, and we would encourage you to do so.

On an annual basis we will check with your agency and review your expenditure data to check that the panel of Providers is meeting the majority of your business needs.

Appendix 1: AoG contract summary

This contract summary provides a description of key aspects of the contract for services between MED, (on behalf of the Crown) and the panel Providers. For further information on the contract, agency buyers should contact the External Legal Services CoE.

Please note that contract details are commercial and in confidence and that pricing arrangements must not be discussed or disclosed with third parties outside the Participating Agency.

Contract Summary

The External Legal Services All-of-Government contract for the provision of legal services across seven key areas of law:

- Banking and Finance
- Corporate and Commercial
- Employment
- Environmental and Resource Management
- Litigation
- Property
- Public

Contract period

Two years from December 2011 with two extension options of two years each (2+2+2).

Panel Providers

Banking and Finance

- Bell Gully
- Chapman Tripp
- DLA Phillips Fox
- Franks & Ogilvie
- Greenwood Roche Chisnall
- Mayne Wetherell
- Minter Ellison Rudd Watts
- Russell McVeagh

Corporate and Commercial

- A J Park
- Baldwins Intellectual Property
- Bell Gully
- Best + Hancock (a consortium of sole practitioners)
- Chapman Tripp
- DLA Phillips Fox
- Duncan Cotterill Lawyers
- Elwood Law
- Franks & Ogilvie
- Genevieve Gill, Barrister & Solicitor
- Greenwood Roche Chisnall

	<ul style="list-style-type: none"> • Meredith Connell • Russell McVeagh • Webb Henderson
Employment	<ul style="list-style-type: none"> • Anderson Lloyd • Bell Gully • Buddle Findlay • Chen Palmer New Zealand Public and Employment Law • Cullen Employment Law • Dyhrberg Drayton Employment Law • Kensington Swan • Kiely Thompson Caisley • Lane Neave Lawyers • Minter Ellison Rudd Watts • Simpson Grierson
Environmental and Resource Management	<ul style="list-style-type: none"> • Bell Gully • Chapman Tripp • DLA Phillips Fox • Ellis Gould • Greenwood Roche Chisnall • Macalister Todd Phillips • Minter Ellison Rudd Watts • Power Law • Preston Russell Law • Russell McVeagh • Simpson Grierson • Webb Henderson
Litigation	<ul style="list-style-type: none"> • Bell Gully • ChanceryGreen • DLA Phillips Fox • Kensington Swan • Luke Cunningham & Clere • Meredith Connell • Minter Ellison Rudd Watts • Russell McVeagh
Property	<ul style="list-style-type: none"> • Buddle Findlay • Chapman Tripp • DLA Phillips Fox • Duncan Cotterill Lawyers

	<ul style="list-style-type: none"> • Greenwood Roche Chisnall • Meredith Connell • Morrison Kent • Mortlock McCormack Law • Webb Henderson
Public	<ul style="list-style-type: none"> • Bell Gully • Best + Hancock (a consortium of sole practitioners) • Buddle Findlay • Fiona Wakefield • Greenwood Roche Chisnall • Jonathan Kaye Law • Luke Cunningham & Clere • Meredith Connell • Minter Ellison Rudd Watts • Robert Buchanan Public Law • Russell McVeagh • Vicki J. Owen, Barrister and Solicitor • Wilson Harle

Appendix 2: Key contract terms and conditions

Agreement by an Eligible Agency to participate

The transition to the panel contracts that the Ministry has signed with panel Providers ('Contract') will be conducted in two stages as follows:

Stage 1: **Public service** – *Central Government Agencies will be sent:*

- a) Memorandum of Understanding (MOU)*
- b) Letter of Accession*
- c) Benefit Statement.*

Stage 2: **State sector** – *the wider State Sector agencies will be sent their information in two phases:*

Phase One: Letter of Non-Disclosure. This letter must be signed and returned prior to the release of Phase Two.

Phase Two: Release of the MOU, Letter of Accession and Benefit Statement

Eligible Agencies are required to sign the Letter of Accession (indicating agreement to the MOU) between themselves and MED.

The Benefit Statement outlines potential savings for the Eligible Agency and the respective attributes for the legal services that an agency currently procures.

Agency Engagement

There will be some agencies that will have immediate purchasing requirements. The CoE will meet with these agencies to discuss their requirements and to enable them to purchase from panel Providers as soon as possible.

Engaging a Provider

Each time a Participating Agency wishes to engage a Provider to perform services, those services will be subject to a Legal Services Order recording the terms agreed by those parties for the performance of those services.

Process for issuing and responding to a Legal Services Order

If a Participating Agency wishes to engage the Provider to perform services, it will complete Part A of the Legal Services Order and email it to the Provider.

After receiving a Legal Services Order, the Provider must, subject to clause 5.1(a) of the Contract, complete the information specified in Part B of the Legal Services Order, and email it to the Participating Agency. Clause 5.1(a) requires the Provider to issue an estimate or quote for the services if the total value of the services is expected to be more than \$3,000 (excl. GST).

Upon receipt of the completed Part B of the Legal Services Order, the Participating Agency must promptly advise the Provider (in writing) if the completed Part B is acceptable. Subject to clause 4.4(d) of the Contract, the Provider may not commence performing the services until this approval has been given.

If the services are required so urgently that it is impractical for the Provider to fully complete Part B of the Legal Services Order before commencing the services, the Provider must complete the Legal Services Order as soon as reasonably practicable after commencing the services, provided

that the Provider confirms to the Participating Agency that it has no actual, potential or perceived conflict of interest in providing the services subject to the Legal Services Order.

Insurance

During the term of the Contract and for a period of two years following the effective date of expiry or termination of the Contract the Provider will, at its own expense, ensure that it maintains adequate insurance in respect of its potential liability for loss or damage under the Contract.

Payment

Participating Agencies are required to make payment for services received by the 20th of the month following the date of invoice.

Confidentiality

It is important to protect confidential information. This is information that is commercially sensitive, such as a Provider's pricing, or relates to a party's financial position, customer base, internal management, structure or personnel. Both the Provider and the buyer must safeguard confidential information and not disclose it to any third party or use it for their own benefit.

Dispute resolution

Both parties must use their best efforts to resolve a dispute or difference that arises. This means they must negotiate in good faith to find a solution. Under the Contract there is a formal escalation process for disputes as follows:

Timeframe	Escalation
The day the dispute arises	Both parties attempt to resolve the dispute.
If not resolved within 10 business days	Buyer escalates to agency senior representative. Provider escalates to Provider Lead Representative.
If not resolved within a further 30 business days	Buyer escalates to CoE's Manager, All of Government Contracts. Provider escalates to its Representative.

Administration expenses

Participating Agencies will benefit from substantial cost savings negotiated through the AoG contracts. Cabinet has decided that Participating Agencies should retain those savings, but has agreed that a small administration charge be applied to each order placed as a means of funding the ongoing management of the ELS contracts under the Reform Programme. This will recover the costs associated with the establishment of the ELS contract and the ongoing resource to manage the panel.

An administration charge of 1.5% will be applied to all orders placed by Participating Agencies and collected by the Provider at point of invoicing agencies. The Provider will then remit this to MED on a quarterly basis. **This administration fee is included in all quotes, estimates and hourly rates.**

Appendix 3: Frequently asked questions

There's more to cost savings than lower prices

Achieving cost savings is not just about buying the same services at lower hourly rates.

Thinking about what type of legal advice we are buying and who is the best value-for-money Provider can also make a significant difference. For example, we could consider what areas of law we typically need advice in, what is the level of risk and expertise we need serviced and therefore who is the best value Provider to do this, as opposed to selecting the preferred Providers we habitually use.

Where can I find the details of the available Providers?

Full details are available to Participating Agencies (i.e. Eligible Agencies who have signed the MoU and will be buying off the panel contract) on the Government procurement website. Each agency needs to nominate one or more administrators who will contact the CoE for an Agency ID and password: email ELS@med.govt.nz.

Are there any restrictions on the Providers my agency can use under the AoG contract?

The contract provides for the supply of External Legal Services across seven areas of law as outlined on pages 8-14 above. Participating Agencies can choose from a range of Providers in these areas of law. These should meet most agencies' business needs most of the time.

If your agency has a specific requirement which is not covered by the Providers available in the main database, send a request to the CoE to notify them of your requirement and that it cannot be met by the panel Providers.

Is my agency expected to buy from the lowest priced Provider?

Participating Agencies are expected to buy from the best value-for-money Provider that meets their business needs. In some cases this will not be the Provider with the lowest price.

Can my agency purchase outside of the AoG contract if we can negotiate a better deal?

No.

We have been able to negotiate substantial discounts for agencies, and significant overall savings for government, through the combined buying power of the overall State sector.

Providers have agreed not to offer legal services included in the contract at better prices to any individual Eligible Agency. However, agencies are able to negotiate discounted rates with Providers on the panel.

It is possible that non-approved Providers may contact individual agencies with apparently attractive offers. If this happens, please inform the CoE.

Can I still use my current Provider?

Participating Agencies may use existing Providers IF there is a current formalised contract for services, until such contracts expire. However, because the new AoG contracts can deliver substantial savings, we encourage all Eligible Agencies to transition to the new contracts as soon as they are able to. This may include exercising termination options in existing contracts, and not exercising renewal provisions in existing contracts.

Will Provider details in the Panel Directory regarding cost and Agency satisfaction change as the performance of the Providers is captured over time?

As the relative cost and quality of Providers is captured through the life of the contract, the CoE will analyse the information and include updated information on the panel directory, on a quarterly basis. This will include how Panel Providers are ranked by value-for-money (relative cost and agency satisfaction).

Who do I talk to if I am not happy with the performance of a Provider?

If you are experiencing performance issues and/or a contractual dispute, contact the CoE: ELS@med.govt.nz

Appendix 4: Useful publications and links

The following documents will be provided to Chief Executives of State sector Agencies as they are ready to transition onto the External Legal Services AoG contract:

- Letter including Benefits Statement
- Supply Agreement (contract) for External Legal Services – for information
- ELS Panel Directory (once non-disclosure agreement signed)
- Memorandum of Understanding and Letter of Accession (for CEs to sign).

Buyers' Guides

- Guide to All-of-Government Contracts
- Guide to the Government e-Marketplace
- Buyers' Guide, All-of-Government Contract for Office Consumables
- Buyers' Guide, All-of-Government Contract for Laptop & Desktop Computers
- Buyers' Guide, All-of-Government Contract for Single & Multi-function Print Devices
- Buyers' Guide, All-of-Government Contract for Vehicles

Important links

www.procurement.govt.nz - is the place to go for information on:

- other government contracts (AoG and syndicated)
- Government Model Contracts for low value, low risk common goods and services
- Government procurement policy, mandatory rules and related guidance
- best practice guidance
- templates and tools for everyday use
- building a professional procurement career: core competencies, training needs analysis, subsidised training and education opportunities
- the latest developments in the Government Procurement Reform
- and a whole lot more!

<https://see.govt.nz/legal/panel/default.aspx> - is the place to go for access to the:

- Panel Directory and resumes
- Buyers Guide
- Legal Services Order

Note this is a secure site with user access managed by the CoE.

Appendix 5: Legal Services Order

Part A – for Participating Agency (client) to complete

The Participating Agency (referred to as the client in this Legal Services Order) will complete this and email the entire form (including all Parts) to the Provider.

Date		Client	
Provider		Business Unit / Team	
Acting Lawyer (Nominated Personnel)	<i>[where client wants certain person on matter]</i>	Business Unit Contact	
Matter Name	<i>[optional name]</i>	Business Unit Contact title	
Client reference	<i>[client unique reference number/ Purchasing Order number]</i>	Business Unit Contact phone #	
Area of law		In-house legal contact	<i>[if applicable]</i>
Sub-area of law		In-house legal contact phone #	<i>[if applicable]</i>

Purpose, Legal issue and any background information

--

Specific questions / instructions for Provider

--

Additional Information e.g. risks to client, additional contact information

--

Timeframe

--

Part B – for Provider to complete

The Provider will complete Part B and email the form back to the client, who can then confirm this information by sending an email to the Provider confirming acceptance.

Can you confirm that the nominated Acting Lawyer (Nominated Personnel, if any) is available to provide the Services?

Can you confirm that the timeframe is acceptable?

Conflict of Interest declaration

I, [name of lawyer at Provider organisation] have made diligent inquiry whether [name of Provider] has any actual, potential or perceived Conflict of Interest if [name of Provider] were to provide the Services described in this Legal Services Order and I have disclosed any actual, potential or perceived Conflict of Interest below.

Disclose any and all actual, potential or perceived Conflicts of Interest:

--

Conflict of Interest Management Plan

Where an actual, potential or perceived Conflict of Interest has been disclosed and the Participating Agency wishes to engage the Provider, the following Conflict of Interest Management Plan has been put in place within the Provider's firm to manage the disclosed conflict:

--

By entering this Legal Services Order the parties agree that the Management Plan described above is an appropriate course of action to manage the disclosed conflict and that the Provider will follow the agreed Management Plan.

Estimate / Quote

Fee (disbursements and GST exclusive)	\$
Expenses	\$
Total	\$
Identify whether the Total is an estimate, fixed fee/quote, capped fee, done under a retainer etc...	

Additional Information / assumptions:

--

Additional Information

--

Part C – Variations to Part A**LEAVE BLANK WHEN ISSUING LEGAL SERVICES ORDER**

The client will complete Part C if they wish to change any details in Part A

Revised scope and/or timeframe

--

Part D – Variations to Part B
Leave BLANK WHEN ISSUING LEGAL SERVICES ORDER
The Provider will complete this only if and when it receives a Variation per Part C above from the client

Revised Estimate	
Revised Estimate	\$
Expenses	\$
Total	\$
Identify whether the Total is an estimate /quote, fixed fee, capped fee, done under a retainer etc...	
Additional Information / assumptions:	

Appendix 6: Value Added Services

Listed below are all the value added services that Providers will offer for free, to Participating Agencies who are clients.

Value Added Service	Expectations concerning the <u>free</u> value added services that the Provider will offer to <u>all clients</u> who are Participating Agencies
Access to Provider's basic templates	Upon request the Provider will provide standard templates that are relevant to the Provider's specialised area/s of law.
Dedicated seminars / training for Participating Agency staff	The Provider will provide a minimum of two dedicated seminars for Participating Agency staff annually. These may be internal training seminars (for the Provider's staff and client staff), or external to the Provider's organisation (for client staff only).
Brief telephone advice	The Provider will provide free legal advice via telephone, of up to 15 minutes, concerning new matters or ad hoc matters that do not relate to an open matter (but may result in a matter being opened).
Brief email advice	The Provider will provide free legal advice via email, where no more than 15 minutes is needed of the Provider's time to respond to a query, concerning new matters or ad hoc matters that do not relate to an open matter (but may result in a matter being opened).
Commentary in newsletters / memos on issues relevant to Provider's specialised area/s of law	The Provider will issue at least two newsletters / memos annually to clients who are interested in receiving this service.
Attendance at strategic planning meetings	Upon request from any Participating Agency client, the Provider will attend annual strategic planning meetings, which may be one day duration.
Induction for Provider to learn a Participating Agency's business	Upon request by any Participating Agency who is a client, the Provider will attend an induction of the agency's business, of up to 4 hours.
Use of Provider's premises e.g use of a meeting room	Upon request and reasonable notice the Provider will provide reasonable access to the use of its premises, such as access to the Provider's meeting rooms.
Other Value Added Services that the Provider will offer to all clients who are Participating Agencies	
Secondees at favourable rates	Upon request and reasonable notice by a Participating Agency, the Provider will provide secondees at agreed rates (as detailed in the master services agreement), subject to availability and agreement between the Provider and the Participating Agency.