

# Hon Carmel Sepuloni

MP for Kelston

Deputy Prime Minister

Minister for Arts, Culture and Heritage

Minister for Auckland

Minister for Social Development and Employment

Minister for Workplace Relations and Safety

Associate Minister of Foreign Affairs (Pacific Region)



18 October 2023

Ref: OIA 23-722

Chris McCashin

[fyi-request-23935-c4f9c009@requests.fyi.org.nz](mailto:fyi-request-23935-c4f9c009@requests.fyi.org.nz)

Tēnā koe Chris McCashin

Thank you for your email of 23 August 2023 requesting the following under the Official Information Act 1982 (the Act):

*Please provide the most recent report completed by the Government and their individual agencies that have funding in excess of \$20m that report on*

- How the agency tackles exploitation risks in their operations and supply chains*
- Specifically looking for supply chains relating to individual agencies and electric cars*
- Specifically looking for supply chains relating to individual agencies and mobile phones*
- Specifically looking for supply chains for any products the government buys in bulk that require rare earth minerals mined in third world countries contributing to modern slavery*

*If this has not been done can you confirm when this will be done bearing in mind you are pushing legislation and will this reporting be completed prior to this legislation going through?*

*And can you confirm government agencies that receive in excess of \$20m will also be subject to this legislation. If not why not?*

On 13 September 2023, my Office wrote to you seeking to confirm your preferences on processing your request, as aside from All-of-Government contracts, managed by New Zealand Government Procurement (NZGP) at the Ministry of Business, Innovation and Employment (MBIE), each agency is responsible for its own procurement processes. As such, the information relating to individual agencies is not held by any one agency or office, nor contained in any recent comprehensive report. My Office sought your preference on whether you wished to contact agencies directly, or for my Office to extend the timeframe to respond to your request and consult to transfer it to the appropriate agencies.

On 13 September 2023, you advised that you would prefer that my Office extend and consult to provide you the information. Thank you for your prompt reply.

On 20 September 2023, my Office extended the timeframe to respond to your request until 13 October 2023, under section 15A(1)(b) to allow for these consultations to occur. Following this consultation process, seven agencies have accepted a partial transfer of your request. These agencies are:

- the Department of Conservation
- the Earthquake Commission

- Kāinga Ora
- the Ministry of Education
- the Ministry for Pacific Peoples
- the New Zealand Defence Force
- the Ministry for the Environment

I have written to these agencies to transfer your request. Please find below a response to your request in so far as it relates to my Office, and information received from the MBIE.

### **Procurement system settings**

Government agencies are responsible for their own procurement activities, subject to the Government Procurement Charter and Principles. Mandated agencies are also required to apply the Government Procurement Rules, while all others should have regard to them.

MBIE's Chief Executive is the government's Procurement Functional Leader, and MBIE delivers this function primarily through setting the Government Procurement Rules, running All of Government (AoG) contracts, helping agencies build procurement capability and expertise, as well as running the Government Electronic Tender Service (GETS).

Most government purchasing is through individual agencies conducting their own procurement, and MBIE does not prescribe, nor has oversight of, the contractual terms and due diligence practices and requirements of agencies.

### **All-of-Government Contracts**

As well as entering into agreements in its own right, MBIE is responsible for 22 AoG contracts.

Each AoG contract is a collaborative contract MBIE has set up with approved suppliers for selected common goods or services purchased across government agencies and government-funded schools.

The agencies and schools can sign up to these agreements. The AoG structure means that a participating agency or school does not execute any supply agreement, but enters into a Memorandum of Understanding with MBIE, which entitles the agency or school to obtain goods and/or services under the AoG agreement.

In regard to "supply chains for any products the government buys in bulk that require rare earth minerals mined in third world countries contributing to modern slavery", we understand that rare earth elements are used in a wide range of components for applications, especially high-tech consumer products, such as cellular telephones, computer hard drives, electric and hybrid vehicles, and flat-screen monitors and televisions.

The majority of government procurements (purchases or leases) of computers are made through the AoG IT Hardware contract, while the majority of government purchases of light commercial and passenger vehicles are made through the AoG Motor Vehicles contract. Government procurement of mobile phones may be through the AoG IT Hardware agreement, the Telecommunications as a Service agreement, for which the Department of Internal Affairs is the Government Procurement Functional Leader, or by direct purchase or lease.

## **Exploitation risk mitigation in the IT hardware and Motor Vehicles AoG contracts**

As part of the request for proposals (RFP) process for the AoG Motor Vehicles and IT Hardware contracts, MBIE conducts 'due diligence' checks when selecting its providers.

As well as checks about issues such as financial viability, MBIE may conduct internet searches about the company and checks of media coverage. Respondents may be asked to provide referees and references.

Respondents to the IT Hardware RFP were asked to provide information about their products' 'ethical accreditation'. This contributed to their final score for selection.

The AoG Motor Vehicles and IT Hardware contracts both have provisions that require the suppliers to comply with International Labour Organisation conventions and applicable labour legislation, to provide a safe working environment and to procure that its related companies, suppliers, and subcontractors do the same.

Both contracts require each supplier to actively monitor compliance with the International Labour Organization's (ILO's) conventions, with labour legislation and the provision of safe working environment by its related companies, suppliers, and subcontractors, and to immediately notify MBIE of any actual or suspected non-compliance.

Both contracts have clauses about compliance with legislation. They have tailored provisions about obligations to reports issues, which would include modern slavery being in their supply chain.

MBIE staff are in regular communication with suppliers for the AoG IT Hardware and Motor Vehicles contracts. MBIE has made it clear to suppliers that it requires them to notify it of 'issues' in connection with the supply of goods under the contracts. If a supplier became aware of modern slavery in its supply chain, the supplier would be contractually obliged to notify MBIE of this.

For your reference, there is publicly available information about these contracts at following webpages:

- <https://www.procurement.govt.nz/contracts/motor-vehicles/>
- <https://www.procurement.govt.nz/contracts/it-hardware/>

## **Agencies subject to legislation**

You also asked, "can you confirm government agencies that receive in excess of \$20m will also be subject to this legislation. If not why not?"

The legislation, once it comes into force, will apply to all types of organisations with \$20 million or more in annual revenue over each of their last two financial years, including Government agencies.

## **Reports received**

One report has been identified as relevant to your request, though I note it is not specifically relevant to the supply chains of a particular agency, I have decided to release it given its relation to the sourcing of electric vehicles' batteries. Therefore, please find attached the briefing 2122-4282 *Labour standards in EV battery sourcing* dated 19 May 2022, subject to some information being withheld under the following sections of the Act:

- 6(a) to protect the security or defence of New Zealand or the international relations of the Government of New Zealand; and

9(2)(a) to protect the privacy of individuals.

In terms of section 9(1) of the Act, I am satisfied that, in the circumstances, the withholding of this information is not outweighed by other considerations that render it desirable to make the information available in the public interest.

You have the right to seek an investigation and review by the Ombudsman of my response to this request, in accordance with section 28(3) of the Act. The relevant details can be found at:

[www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz).

Nāku noa, nā



Hon Carmel Sepuloni

**Minister for Workplace Relations and Safety**