



FUNDING AGREEMENT

FOR

'Methamphetamine contamination in residential properties' report

Prime Minister's Chief Science Advisor

DATED the 13 day of April 2018

BETWEEN HER MAJESTY THE QUEEN in right of New Zealand acting by and through the Ministry of Business, Innovation & Employment ("Ministry")

AND The Prime Minister's Chief Science Advisor, Professor Sir Peter Gluckman ("Recipient")

AND The University of Auckland, a body corporate established under the University of Auckland Act 1961 ("University of Auckland")

BACKGROUND

A The Minister for Housing and Urban Development (the Minister) has asked the Recipient to produce a report entitled '*Methamphetamine contamination in residential properties: Exposures, risk levels, and interpretation of standards*' (the Report) by 16 April 2018.

B The Recipient has agreed to produce the Report in the timeframe requested.

C The University of Auckland is the administrative host of the Recipient and accordingly the Recipient has requested and the Ministry has agreed to direct the Funding for the Report to the Recipient's account held at the University of Auckland

AGREEMENT

The Ministry will pay the Funding to the Recipient (via the Recipient's administrative host, the University of Auckland) and the Recipient and the University of Auckland accept the Funding, on the terms and conditions set out in Schedule 1 (Details) and Schedule 2 (Funding Agreement Standard Terms and Conditions).

Signed for and on behalf of THE MINISTRY
OF BUSINESS, INNOVATION &
EMPLOYMENT:

C. D. Leadbetter
Signature

Claire Leadbetter
Print Full Name

Policy Manager
Print Title

Date: 13/4/18

Signed by THE PRIME MINISTER'S CHIEF
SCIENCE ADVISOR, PROFESSOR SIR PETER
GLUCKMAN:



Signature

Prof Sir Peter Gluckman

Print Full Name

Prime Minister's Chief Science Advisor

Print Title

13/04/18

Date:

Signed for and on behalf of THE
UNIVERSITY OF AUCKLAND:



Signature

STUART N. McCLUTCHEON

VICE-CHANCELLOR

THE UNIVERSITY OF AUCKLAND

Print Title

Date: 16.04.2018

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

SCHEDULE 1 – DETAILS

1 Appropriation and approval process (Background)

Funding for the Report is from the Housing Policy Advice appropriation.

2 Funding (clause 2.1, Schedule 2)

The Ministry will fund the Recipient's actual and reasonable costs to produce the Report, up to a maximum amount of \$9(2)(b)(ii)

3 Project (clause 2, Schedule 2)

The Recipient will produce the Report, being a report entitled 'Methamphetamine contamination in residential properties: Exposures, risk levels, and interpretation of standards' by 16 April 2018.

4 Project Tasks (clause 2.3(a), Schedule 2)

Produce the Report in accordance with the outline and content requirements detailed in clause 5 (Methodology) of this Schedule 1 and provide the following drafts to the Ministry prior to finalising the Report:

- A Executive Summary of the Report: to be provided on 29 March 2018; and
- B Draft Report prior to the Report's external review: 6 April 2018.

5 Methodology (clause 2.3(c), Schedule 2)

The Report shall be prepared in accordance with the outline and content requirements detailed in Table 1 below.

Table 1: outline and content requirements of Report

<p>1. Executive Summary</p> <p>2. Aim and scope</p> <p>The Report is aimed at providing clarification and ensuring public confidence around how to manage methamphetamine in residential properties.</p> <ul style="list-style-type: none">• The aim of the Report will be to provide government decision makers and the general public with a comprehensive and up-to-date understanding of the available scientific evidence on the risks to occupants of houses previously used for methamphetamine production, or those in which methamphetamine was smoked by prior occupants. It is intended as a plain English translation of technical information about risks of indirect ('third hand') exposure to methamphetamine residues in places where people live. More specifically, the Report will discuss what is known and not known about how levels of contamination translate to potential exposure and levels of risk, and what it means in the context of the current situation in New Zealand.• The Report will also look into current practices for testing and decontamination in light of the available evidence on exposures and health risks. This synthesis should help inform decisions on remediation requirements within New Zealand housing stock, and enhance public understanding of what has been a confusing and contentious issue.• The Report will primarily consider the relevant peer-reviewed scientific literature from New Zealand and internationally, as well as reports published by respected scientific bodies (e.g. national academies, Crown Research Institutes, etc.) and any other data that has robust evidential quality. It will review the evidence that formed the basis of the recently released New Zealand Standard (NZS 8510:2017) and other current international standards. <p>3. Background – the methamphetamine situation in New Zealand</p> <ul style="list-style-type: none">• The methamphetamine use problem – Impacts on individuals, families, communities• Prevalence, trends (in manufacture and use)• What gets left behind – potential impacts on innocent parties. Health fears and moral panic over methamphetamine contamination<ul style="list-style-type: none">○ Detecting methamphetamine residues on surfaces in residential environments○ Growth of the methamphetamine testing and decontamination industry

4. Methamphetamine exposure and health

- What is methamphetamine? Therapeutic use to drug of abuse
- Concepts of risk - hazard, likelihood, consequence, exposure and vulnerability
- What is known about health risks from passive exposure?
 - Hazards in former clandestine labs
 - Second- and third-hand exposure to methamphetamine smoke/residues

5. Establishing health-based standards for methamphetamine exposure

- How are risk levels determined?
 - Explanation of international standards/guidelines and how they were derived
 - Toxicity assessments for methamphetamine
 - Estimating exposure via surface contact – what levels might result in a physiological effect?
 - Understanding safety factors
 - Assumptions and alternative calculations
- Guideline development in NZ
 - Ministry of Health 2010 guidelines, ESR 2016 review , NZS 8510:2017 (Standards NZ)
 - The aim of the new standards – standardising the rules around sampling and testing processes
- Ensuring guidelines for mitigation measures are proportionate to risk
 - NZ data on average contamination levels and incidence of clan labs
 - Applying a risk-based approach in the NZ context to inform remediation strategies

6. An evidential and health risk-based approach for managing potential exposure and contamination

- Summary of potential risks from short-term or chronic environmental exposure to methamphetamine residues – when do we need to worry?
- What it means for property owners, tenants and landlords
- Conclusions
 - Risks in perspective – seeing the big picture

NOTE:

In addition to a review of the scientific literature, preparation of the Report will involve interviews with relevant stakeholders and subject matter experts, including:

- Housing NZ
- National Drug Intelligence Bureau
- ESR Forensic Drug Chemistry team
- Ministry of Health
- MBIE
- Department for Prime Minister and Cabinet (DPMC)
- NZ Drug Foundation
- Illicit Drug Monitoring System (IDMS)
- National Poisons Centre
- Auckland Regional Public Health Service
- Selected regional councils and DHBs
- US Centers for Disease Control and Prevention (CDC- NIOSH)
- NZ Environmental Protection Authority

Reports and information will be sought from equivalents in other jurisdictions, including some members of drug testing and decontamination industries.

6 Payment terms (clause 2.1, Schedule 2)

- A The Funding will be paid as one lump sum on completion of the Report and receipt of an invoice from the University of Auckland.
- B Payment of the Funding will be made to the bank account of the Office of the Prime Minister's Chief Science Advisor, held by the Recipient's administrative host the University of Auckland.
- C The University of Auckland shall ensure the Funding is applied in accordance with the terms of this Agreement.

7 Commencement Date (clause 1.1, 3.1 Schedule 2)

30 January 2018.

8 Completion Date (clause 2.3(b), Schedule 2)

16 April 2018.

9 Reporting Requirements (clause 4.1, Schedule 2)

The Recipient shall provide reporting by email to the Ministry, to the Ministry persons named in clause 11 of this Schedule 1, of any risk that will or may cause a delay to completion of the Report, if such a risk does or may arise (a Risk Report).

10 Content of Reports (clause 4.1, Schedule 2)

Any Risk Report shall include information about the risk, likelihood of that risk occurring, the delay or likely delay impact on the Report, and what steps the Recipient has taken or will take to mitigate any delay.

11 Address for Notices (clause 12.5, Schedule 2)

Ministry:	Recipient:
Ministry of Business, Innovation & Employment 15 Stout St PO Box 1473 WELLINGTON Attention: Claire Leadbetter Katherine Slaney	Prime Minister's Chief Science Advisor Sir Peter Gluckman PO Box 108-117, Symonds Street Auckland Attention: Kristiann Allen

FUNDING AGREEMENT STANDARD TERMS AND CONDITIONS - SCHEDULE 2

1. Interpretation

1.1 In this Agreement, the following terms have the following meanings:

“Agreement” means this agreement, including Schedule 1 and this Schedule 2;

“Business Day” means any day not being a Saturday or Sunday or public holiday within the meaning of section 44 of the Holidays Act 2003;

“Commencement Date” means the commencement date set out in the Details or, if no commencement date is set out, the date of this Agreement.

“Completion Date” has the meaning given in the Details;

“Confidential Information” includes all information and data (in any form) concerning the organisation, administration, operation, business, clients, finance, and methods of the Ministry, including any information provided by the Ministry under or in connection with this Agreement;

“Details” means Schedule 1;

“Funding” means the funding amount set out in the Details;

“GST” means goods and services tax within the meaning of the Goods and Services Tax Act 1985;

“Intellectual Property Rights” includes copyright and all rights conferred under statute, common law or equity in relation to inventions (including patents), registered or unregistered trade marks and designs, circuit layouts, data and databases, confidential information, know-how, and all other rights resulting from intellectual activity;

“Parties” means the Ministry and the Recipient and their respective successors and permitted assigns;

“Project” means the project described in the Details; and

“Project Tasks” means the project tasks (if any) set out in the Details which must be completed by the Recipient before a Funding payment is made by the Ministry.

1.2 References to clauses and Schedules are to clauses and Schedules of this Agreement and references to persons include bodies corporate, unincorporated associations or partnerships.

1.3 The headings in this Agreement are for convenience only and have no legal effect.

1.4 The singular includes the plural and vice versa.

1.5 “Including” and similar words do not imply any limitation.

1.6 References to a statute include references to that statute as amended or replaced from time to time.

1.7 Monetary references are references to New Zealand currency.

1.8 If there is any conflict of meaning between the Details and Schedule 2, Schedule 2 will prevail.

2. Funding

2.1 The Ministry must pay the Funding at the rate and in the manner set out in the Details. The Funding is the maximum amount payable by the Ministry for the Project.

2.2 The Recipient must use the Funding only to carry out the Project in accordance with this Agreement.

2.3 In consideration of the Funding, the Recipient must:

(a) complete each Project Task (if any) by the relevant payment date set out in the Details;

(b) complete the Project to the Ministry’s satisfaction by the Completion Date;

(c) carry out the Project in accordance with:

(i) the methodology (if any) set out in the Details;

(ii) the best currently accepted principles and practice applicable to the field(s) of expertise relating to the Project; and

(iii) all applicable laws, regulations, rules and professional codes of conduct or practice; and

(d) refund any unspent Funding to the Ministry within 10 Business Days of the Completion Date.

2.4 Where all of the monies received by the Recipient to carry out the Project (including the Funding) exceeds the total cost of the Project, the Recipient must refund to the Ministry the excess amount. The Recipient is not required to refund, under this clause 2.4, any amount that exceeds the total amount of Funding.

3. Project Progress

3.1 If:

- (a) the Ministry is not satisfied with the progress of the Project;
 - (b) the Recipient does or omits to do something, or any matter concerning the Recipient comes to the Ministry's attention, which, in the Ministry's opinion, may damage the business or reputation of the Ministry; or
 - (c) the Recipient breaches any of its obligations under this Agreement,
- the Ministry may (without limiting its other remedies):
- (d) renegotiate this Agreement with the Recipient; or
 - (e) terminate this Agreement immediately by notice to the Recipient, and clause 4.4 will apply.

4. Term and Termination

4.1 Subject to clauses 4.2 and 4.3, this Agreement will commence on the Commencement Date and expire when:

- (a) the final report is completed and provided to the Ministry; and
 - (b) the Project is completed,
- to the satisfaction of the Ministry.

4.2 The Ministry may terminate this Agreement at any time by giving at least 10 Business Days notice to the Recipient.

4.3 The Ministry may terminate this Agreement immediately by giving notice to the Recipient, if the Recipient:

- (a) is in breach of any of its obligations under this Agreement and that breach is not capable of being remedied;
- (b) fails to remedy any breach of its obligations under this Agreement within 5 Business Days of receipt of notice of the breach from the Ministry;
- (c) does or omits to do something, or any matter concerning the Recipient comes to the Ministry's attention, which in the Ministry's opinion may cause damage to the business or reputation of the Ministry or of the Government of New Zealand;
- (d) has given or gives any information to the Ministry which is misleading or inaccurate in any material respect; or
- (e) becomes insolvent, bankrupt or subject to any form of insolvency action or administration.

4.3 Termination of this Agreement is without prejudice to the rights and obligations of the Parties accrued up to and including the date of termination.

4.4 On termination of this Agreement, the Ministry may (without limiting any of its other rights or remedies):

- (a) require the Recipient to provide evidence of how the Funding has been spent; and/or
- (b) require the Recipient to refund to the Ministry:
 - (i) any of the Funding that has not been spent or committed by the Recipient. For the purposes of this clause, Funding is committed where it has been provided or promised to a third party for the purpose of carrying out the Project and the Recipient, after using reasonable endeavours, is unable to secure a refund or release from that promise (as the case may be); or
 - (ii) the proportion of the Funding that equates to the uncompleted part of the Project, as reasonably determined by the Ministry; and/or
- (c) if the Funding has been misused, or misappropriated, by the Recipient, require the Recipient to refund all Funding paid up to the date of termination, together with interest at the rate of 10% per annum from the date the Recipient was paid the money to the date the Recipient returns the money.

4.5 The provisions of this Agreement relating to termination (clause 4), audit and record-keeping (clause 5.2(b), (c) and (d)), warranties (clause 6), intellectual property (clause 7), confidentiality (clause 8), and liability and insurance (clause 9) will continue after the expiry or termination of this Agreement.

5. Reporting Requirements and Audit

5.1 The Recipient must report on the progress of the Project to the Ministry:

- (a) as set out in the Details;

- (b) as otherwise reasonably required by the Ministry; and
- (c) in any format and on any medium reasonably required by the Ministry.

5.2 The Recipient must:

- (a) maintain true and accurate records in connection with the use of the Funding and the carrying out of the Project sufficient to enable the Ministry to meet its obligations under the Public Finance Act 1989 and retain such records for at least 7 years after termination or expiry of this Agreement;
- (b) permit the Ministry, at the Ministry's expense, to inspect or audit (using an auditor nominated by the Ministry), from time to time until 7 years after termination or expiry of this Agreement, all records relevant to this Agreement;
- (c) allow the Ministry reasonable access to the Recipient's premises or other premises where the Project is being carried out; and
- (d) appoint a reputable firm of chartered accountants as auditors to audit its financial statements in relation to the use of the Funding;

6. Warranties

6.1 Each Party warrants to the other Party that it has full power and authority to enter into and perform its obligations under this Agreement which, when executed, will constitute binding obligations on it in accordance with this Agreement's terms.

6.2 The Recipient warrants that:

- (a) it is not insolvent or bankrupt and no action has been taken to initiate any form of insolvency administration in relation to the Recipient;
- (b) all information provided by it to the Ministry in connection with this Agreement was, at the time it was provided, true, complete and accurate in all material respects; and
- (c) it is not aware of any material information that has not been disclosed to the Ministry which may, if disclosed, materially adversely affect the decision of the Ministry whether to provide the Funding.

7. Intellectual Property

7.1 All Intellectual Property Rights in the reports provided under clause 5.1 will be owned by the Ministry from the date the reports are created or developed.

7.2 All intellectual property produced by the Recipient or its employees or contractors in relation to the Project is, on creation, jointly owned by the Ministry and the Recipient. Each Party may use (which includes modifying, developing, assigning, or licensing) such intellectual property without obtaining the prior consent of the other Party. On request, the Recipient must provide to the Ministry such intellectual property in any format, and on any medium, reasonably requested by the Ministry.

7.3 The Recipient must ensure that material created or developed in connection with the Project does not infringe the Intellectual Property Rights of any person.

8. Confidentiality

8.1 The Recipient must:

- (a) keep the Confidential information confidential at all times;
- (b) not disclose any Confidential information to any person other than its employees or contractors to whom disclosure is necessary for purposes of the Project or this Agreement;
- (c) effect and maintain adequate security measures to safeguard the Confidential information from access or use by unauthorised persons; and
- (d) ensure that any employees or contractors to whom it discloses the Confidential information are aware of, and comply with, the provisions of this clause 8.

8.2 The obligations of confidentiality in clause 8.1 do not apply to any disclosure of Confidential information:

- (a) to the extent that such disclosure is necessary for the purposes of completing the Project;
- (b) required by law; or
- (c) where the information has become public other than through a breach of the obligation of confidentiality in this clause 8 by the Recipient, or its employees or contractors, or was disclosed to a Party on a non-confidential basis by a third party.

8.3 The Recipient must obtain the Ministry's prior written agreement over the form and content of any public statement made by the Recipient relating to this Agreement, the Funding, or the Project.

9 Liability and Insurance

- 9.1 The Ministry is not liable for any loss of profit, loss of revenue or other indirect, consequential or incidental loss or damage arising under or in connection with this Agreement.
- 9.2 The maximum liability of the Ministry under or in connection with this Agreement whether arising in contract, tort (including negligence) or otherwise is the total amount which would be payable under this Agreement if the Project had been carried out in accordance with this Agreement.
- 9.3 The Recipient (including its employees, agents, and contractors, if any) is not an employee, agent or partner of the Ministry or of the Chief Executive of the Ministry. At no time will the Ministry have any liability to meet any of the Recipient's obligations under the Health and Safety in Employment Act 1992 or to pay to the Recipient:
- (a) holiday pay, sick pay or any other payment under the Holidays Act 2003; or
 - (b) redundancy or any other form of severance pay; or
 - (c) taxes or levies, including any levies under the Injury Prevention, Rehabilitation and Compensation Act 2001.
- 9.4 The Recipient indemnifies the Ministry against:
- (a) any taxes, levies, penalties, damages or compensation which the Ministry may be liable to deduct, withhold or pay by reason of the Recipient, or any person used by the Recipient to carry out the Project, being held to be an employee of the Ministry or of the Chief Executive of the Ministry; and
 - (b) any claim, liability, loss or expense (including legal fees on a solicitor own client basis) ("loss") brought or threatened against, or incurred by the Ministry, arising from or in connection with a breach of this Agreement by the Recipient or the Project, or from the negligence or wilful misconduct of the Recipient, its employees or contractors.
- 9.5 Where the Recipient is a trustee, the Ministry acknowledges that the Recipient has entered into this Agreement as a trustee of the trust named in the Details in an independent capacity without any interest in any of the assets of the trust other than as trustee. Except where the Recipient acts fraudulently, the Recipient is liable under this Agreement only to the extent of the value of the assets of the trust available to meet the Recipient's liability, plus any amount by which the value of those assets has been diminished by any breach of trust caused by the Recipient's wilful default or dishonesty.
- 9.6 The Recipient must effect and maintain for the term of this Agreement:
- (a) adequate insurance to cover standard commercial risks; and
 - (b) other insurance reasonably required by the Ministry.

The Recipient must, upon request by the Ministry, provide the Ministry with evidence of its compliance with this clause.

10. Dispute Resolution

- 10.1 The Parties must use their best efforts to resolve any dispute under, or in connection with, this Agreement through good faith negotiations and informal dispute resolution techniques such as mediation, expert determination or similar techniques agreed by them.
- 10.2 Any dispute arising under, or in connection with, this Agreement which cannot be settled under clause 10.1 within a reasonable period may be submitted by either Party to arbitration under the Arbitration Act 1996 before a sole arbitrator who will decide the dispute. The decision of the arbitrator will be final.
- 10.3 If the Parties cannot agree on an arbitrator, either Party may request the President of the New Zealand Law Society to appoint a suitably qualified independent arbitrator to hear and determine the dispute.
- 10.4 The Parties must continue to perform their obligations under this Agreement as far as possible as if no dispute had arisen pending the final settlement of any matter referred to arbitration.
- 10.5 Nothing in this clause shall preclude either Party from taking immediate steps to seek urgent relief before a New Zealand Court.

11 Force Majeure

- 11.1 Neither Party will be liable to the other for any failure to perform its obligations under this Agreement by reason of any cause or circumstance beyond the Party's reasonable control including, acts of God, communication line failures, power failures, riots, strikes, lock-outs, labour disputes, fires, war, flood, earthquake or other disaster, or governmental action after the date of this Agreement ("Force Majeure Event"). The Party affected must:
- (a) notify the other Party as soon as practicable after the Force Majeure Event occurs and provide full information concerning the Force Majeure Event including an estimate of the time likely to be required to overcome it;
 - (b) use its best endeavours to overcome the Force Majeure Event; and
 - (c) continue to perform its obligations as far as practicable.

12 General

- 12.1 A waiver by either Party of any rights arising from any breach of any term of this Agreement will not be a continuing waiver of any other rights arising from any other breaches of the same or other terms or conditions of this Agreement. No failure or delay on the part of either Party in the exercise of any right or remedy in this Agreement will operate as a waiver. No single or partial exercise of any such right or remedy will preclude any other or further exercise of that or any other right or remedy.
- 12.2 Assignment:
- (a) The Recipient must not assign, delegate, subcontract or transfer any or all of its rights and obligations under this Agreement. The Recipient remains liable for performance of its obligations under this Agreement despite any approved subcontracting or assignment.
 - (b) If the Recipient is a company, any transfer of shares, or other arrangement affecting the Recipient or its holding company which results in a change in the effective control of the Recipient is deemed to be an assignment subject to clause 12.2(a).
- 12.3 This Agreement may only be varied by agreement in writing signed by the Parties.
- 12.4 If any part or provision of this Agreement is invalid, unenforceable or in conflict with the law, the invalid or unenforceable part or provision will be replaced with a provision which, as far as possible, accomplishes the original purpose of the part or provision. The remainder of the Agreement will be binding on the Parties.
- 12.5 Any notice to be given under this Agreement must be in writing and hand delivered or sent by facsimile or registered post to the Parties' respective addresses or facsimile numbers as set out in the Details. A notice is deemed to be received:
- (a) if personally delivered when delivered;
 - (b) if posted, three Business Days after posting; or
 - (c) if sent by facsimile, upon production of a transmission report by the machine from which the facsimile was sent which indicates the facsimile was sent in its entirety to the facsimile number of the recipient,
- provided that any notice received after 5pm or on a day which is not a Business Day shall be deemed not to have been received until the next Business Day.
- 12.6 This Agreement sets out the entire agreement and understanding of the Parties and supersedes all prior oral or written agreements, understandings or arrangements relating to its subject matter.
- 12.7 This Agreement may be signed in any number of counterparts (including facsimile copies) and provided that each Party has signed a counterpart, the counterparts, when taken together, will constitute a binding and enforceable agreement between the Parties.
- 12.8 This Agreement will be governed by and construed in accordance with the laws of New Zealand.